



DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
KAGAWARAN NG KAPALIGIRAN AT LIKAS YAMAN



MEMORANDUM

FOR : **The Directors**
Legal Affairs Service
Policy and Planning Service

The Bureau Directors
Environmental Management Bureau
Biodiversity and Management Bureau
Land Management Bureau

The Administrator
National Mapping Resource and Information Authority

All Regional Executive Directors

FROM : **The Director**
Legislative Liaison Office

SUBJECT : **REQUEST FOR COMMENTS ON THE PROPOSED AMENDMENTS TO THE FISHERIES CODE FROM THE DEPARTMENT OF AGRICULTURE - BUREAU OF FISHERIES AND AQUATIC RESOURCES (BFAR)**

DATE : 27 February 2024

In reference to the **Focus Group Discussion (FGD)** conducted by the Presidential Legislative Liaison Office (PLLO) joint with the Department of Agriculture - Bureau of Fisheries and Aquatic Resources (BFAR), last **January 26, 2024** at Novotel Hotel, Cubao, Quezon City, regarding the **Amendments to the Fisheries Code**. The Committee is seeking the Department's position on the proposed amendments.

In this regard, may we respectfully request **your comments/recommendations** on **the abovementioned amendments**, as requested by the Committee. Kindly send them on or before **1 March 2024, at 5:00 PM** via email at denrlllo@denr.gov.ph.

Attached herewith is the matrix on the proposed amendments to the Fisheries Code, for your reference.


ROMIROSE B. PADIN

cc: Undersecretary for Special Concerns and Legislative Affairs

MEMO NO. 2024 - 194



**DA-BFAR RECOMMENDED AMENDMENTS TO
RA 8550 as amended by
RA 10654**

RECOMMENDED FORMULATION	ISSUE
<p>SEC. 18. Users of Municipal Waters. – All fishery activities in municipal waters, as defined in this Code, shall be utilized by municipal fisherfolk and their cooperatives/organizations who are listed as such in the registry of municipal fisherfolk.</p> <p>The municipal or city government, however, may, through its local chief executive and acting pursuant to an appropriate ordinance, authorize or permit small and medium commercial fishing vessels to operate within the ten-point one (10.1) to fifteen (15) kilometer area from the shoreline in municipal waters <u>WITH DEPTH OF 20 FATHOMS (36.5 meters) OR MORE</u> as defined herein, provided, that all the following are met:</p> <p>a. no commercial fishing in municipal waters with depth less than seven (7) fathoms as certified by the appropriate agency; <u>a. NO COMMERCIAL FISHING SHALL BE ALLOWED IN CRITICAL HABITATS, REGARDLESS OF DEPTH, INCLUDING SPAWNING AREAS, AS DECLARED BY THE DEPARTMENT AND OTHER RELEVANT AGENCIES;</u></p> <p>b. THE fishing activities utilizing methods and gears <u>AND METHODS USED</u> that are determined to be consistent with national policies set by the Department;</p> <p>c. prior consultation, through public hearing, with the M/CFARMC has been conducted; and d The applicant vessel as well as the shipowner, employer, captain and crew have been certified by the appropriate agency as not having violated this Code, environmental laws and related laws.</p> <p>In no case shall the authorization or permit mentioned above be granted for fishing in bays as determined by the Department to be in an environmentally critical condition and during closed season as provided for in Section 9 of this Code.</p>	<p>No scientific basis in allowing small and medium commercial fishing vessel to operate within 10.1 – 15km from the shoreline in municipal waters, but there is a scientific basis for depth.</p>

RECOMMENDED FORMULATION	ISSUE
<p>SEC. 32. Distant Water Fishing. – Fishing vessels of Philippine registry Philippine-FLAGGED FISHING VESSELS may engage in distant water fishing as defined in this Code: Provided, That they comply with the safety, manning and other requirements of the Philippine Coast Guard, Maritime Industry Authority and other agencies concerned: Provided, however, That they secure a fishing permit, gear license and other clearances from the Department: Provided, further, That the fish caught by such vessels shall be considered as caught in Philippine waters and therefore not subject to all import duties and taxes only when the same is landed in duly designated fish landings and fish ports in the Philippines: Provided, furthermore, That landing ports established by canneries, seafood processors and all fish landing sites established prior to the effectivity of this Code shall be considered authorized landing sites: Provided, finally, That fishworkers on board Philippine registered -FLAGGED fishing vessels conducting fishing activities beyond the Philippine Exclusive Economic Zone are not considered as overseas Filipino workers.</p> <p>Distant water fishing vessels shall comply with the monitoring, control and surveillance requirements, conservation and management measures, and fishing access conditions of the Department, the RFMO, or other coastal AND PORT states. (aa)</p>	<p>IUU Fishing; to require fishing vessels to land their catch in authorized and duly designated fish ports for effective government control over fishery products derived from IUUF.</p>
<p>SEC. 38. Reportorial Requirements. – Each commercial fishing vessel SHALL COMPLY WITH THE PRESCRIBED REPORTORIAL REQUIREMENTS AND shall keep FISHING LOG SHEETS OR a daily record of fish catch and spoilage, BYCATCH, landing points, and quantity and value of fish caught, and off-loaded for transshipment, sale and/ or other disposal. Detailed information shall be duly certified by the vessel's captain and transmitted to BFAR within the period prescribed in the implementing rules and regulations promulgated by the Department. Failure to comply shall result to administrative and penal sanctions. (aa)</p>	<p>IUU Fishing; to control landing of fishery products derived from IUUF</p>



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RECOMMENDED FORMULATION	ISSUE
<p>SEC. 46. Lease of Fishponds. – Fishpond leased to qualified persons and fisherfolk organizations/cooperatives shall be subject to the following conditions:</p> <p>a. Areas leased for fishpond purposes shall be no more than 50 hectares for individuals and 250 hectares for corporations or fisherfolk organizations;</p> <p>b. The lease shall be for a period of twenty-five (25) years and renewable for another twenty-five (25) years: Provided, That in case of the death of the lessee, his spouse and/or children, as his heirs, shall have preemptive rights to the unexpired term of his Fishpond Lease Agreement subject to the same terms and conditions provided herein provided that the said heirs are qualified;</p> <p>c. Lease rates for fishpond areas shall be determined by the Department: Provided, That all fees collected shall be remitted to the National Fisheries Research and Development Institute and other qualified research institutions to be used for aquaculture research development. <u>FOR THIS PURPOSE, A SPECIAL ACCOUNT SHALL BE CREATED TO BE ADMINISTERED BY THE NFRDI;</u></p> <p>d. The area leased shall be developed and producing on a commercial scale within three (3) years from the approval of the lease contract: Provided, however, That all areas not fully producing within five (5) years from the date of approval of the lease contract shall automatically revert to the public domain for reforestation;</p> <p><u>d. All FLAs COVERING areas not fully DEVELOPED AND NOT producing ON A COMMERCIAL SCALE within TWO (2) years from the date of approval of the lease contract shall BE CANCELLED AND SUCH AREAS SHALL BE DECLARED OPEN TO ANY QUALIFIED APPLICANT.</u></p> <p>e. The fishpond shall not be subleased, in whole or in part, and failure to comply with this provision shall mean cancellation of FLA;</p> <p>f. The transfer or assignment of rights to FLA shall be allowed only upon prior written approval of the Department;</p> <p>g. The lessee shall undertake reforestation for river banks, bays, streams and seashore fronting the dike of his fishpond subject to the rules and regulations to be promulgated thereon; and</p> <p>h. The lessee shall provide facilities that will minimize environmental pollution, i.e., settling ponds, reservoirs, etc.: Provided, That failure to comply with this provision shall mean cancellation of FLA.</p>	<p>1) implementation constraint of NFRDI to utilize the Special Account from the proceeds of the collection of fees.</p> <p>2) To fast-track the full utilization of the public lands leased for fishpond purposes, increase fish production and make them available to bona fide investors/applicants.</p>



RECOMMENDED FORMULATION	ISSUE
<p>SEC. 119. <i>Non-Compliance with Vessel Monitoring Measures.</i> - No municipal, commercial or distant water fishing vessel, shall engage in fishing activity without complying with the vessel monitoring measures. promulgated by the Department in coordination with the LGUs: Provided, That CATCHER AND CARRIER vessels SHALL BE AUTOMATICALLY COVERED BY THIS REQUIREMENT. operating in Philippine waters, only the catcher vessel shall be covered by this requirement. PROVIDED FURTHER THAT, FOR MUNICIPAL FISHING VESSELS, THE DEPARTMENT SHALL PROMULGATE A VESSEL MONITORING MEASURE FOR THE ENFORCEMENT OF THIS SECTION.</p> <p>It shall also be unlawful to intentionally tamper with, switch off or disable the vessel monitoring system.</p> <p>xxx</p>	<p>1) Constraint of the State to have full control in the activities of Philippine-flagged commercial fishing vessels.</p> <p>2) Non-inclusion of carrier vessels in the coverage of VMM.</p>
<p>SEC. 130. <i>Administrative Adjudication.</i> - The Department is hereby empowered to impose the administrative fines and penalties provided in this Code.</p> <p>For this purpose, the Department shall organize and designate the composition of the Adjudication Committee, which shall be composed of the bureau director as chairperson and four (4) other members to be designated by the Secretary. The Adjudication Committee shall be supported by sufficient number of staff to enable it to perform its mandate.</p> <p>The Committee shall promulgate rules and regulations for the conduct of administrative adjudication <u>INCLUDING BUT NOT LIMITED TO</u> and the disposition of confiscated catch, gears, equipment and other paraphernalia <u>AND EXECUTION OF ORDERS AND DECISIONS.</u> It shall also issue subpoena duces tecum and ad testificandum in administrative cases before it. <u>THE COMMITTEE SHALL ALSO HAVE THE POWER TO CITE PARTIES IN CONTEMPT FOR UNLAWFUL DISOBEDIENCE TO ITS ORDERS.</u></p>	<p>Lack of contempt powers of the Adjudication Committee</p>



OTHER RECOMMENDED AMENDMENTS

RECOMMENDED FORMULATION	ISSUE
<p>SEC. 26. Commercial Fishing Vessel License and Other Licenses. - No person shall operate a commercial fishing vessel, pearl fishing vessel or fishing vessel for scientific, research or educational purposes, or engage in any fishery activity, or seek employment as a fishworker or pearl diver without first securing a license from the Department, the period of which shall be prescribed by the Department: <i>Provided</i>, That no such license shall be required of a fishing vessel engaged in scientific research or educational purposes within Philippine waters and pursuant to an international agreement of which the Philippines is a signatory and which agreement defines the status, privileges and obligations of said vessel and its crew and the non-Filipino officials of the international agency under which vessel operates: <i>Provided further</i>, That members of the crew of a fishing vessel used for commercial fishing except the duly licensed and/or authorized patrons, marine engineers, radio operators and cooks shall be considered as fisherfolk: <i>Provided furthermore</i>, That all skippers/master fishers shall be required to undertake an orientation training on detection of fish caught by illegal means before they can be issued their fishworker licenses: <i>Provided finally</i>, That the large commercial fishing vessel license herein authorized to be granted shall allow the licensee to operate only in Philippine waters seven (7) or more fathoms deep, the depth to be certified by the NAMRIA, and subject to the conditions that may be stated therein and the rules and regulations that may be promulgated by the Department.</p>	<p>To be consistent with the amendments made in Section 18.</p>
<p>SEC. 28. Commercial Fishing Vessel Registration. - The registration, documentation, inspection and manning of the operation of all types of fishing vessels OPERATING IN Philippine AND IN DISTANT WATERS plying Philippine waters shall be in accordance with existing laws, rules and regulations.</p>	<p>Updating based on international commitments.</p>
<p>SEC 29. Registration and Licensing of Fishing Gears Used in Commercial Fishing. - Before a commercial fishing holding a commercial THE HOLDER OF A fishing vessel license may begin TO ENGAGE IN fishing operations in Philippine AND IN DISTANT WATERS waters, the fishing gear TO BE USED it will utilize in fishing shall be registered and a license granted therefor. The Department shall promulgate guidelines to implement this provision within sixty (60) days from approval of this Code.</p>	<p>Updating based on international commitments and streamlining of the provision.</p>

<p>SEC. 44. Use of Superlight or Fishing Light Attractor. – The number and candle light power or intensity of superlight and fishing light attractor used in commercial fishing vessels shall be regulated by the Department: Provided, That the use of superlight is banned within municipal waters and bays. The use of fishing light attractor in municipal waters shall be regulated by the local government units. (aa)</p>	<p>The term superlight is a misnomer, a branding that describes only the brightness of the light attractor that is used by commercial fishers.</p>
<p>SEC. 45. Disposition of Public Lands for Fishery Purpose. – Public lands such as tidal swamps, mangroves, marshes, foreshore lands and ponds suitable for fishery operations shall not be disposed or alienated. Upon effectivity of this Code, FLA may be issued for public lands that may be declared available for fishpond development primarily to qualified fisherfolk cooperative/associations <u>LESSEES FOR FISH/AQUATIC PRODUCTION PURPOSES, AS MAY BE DETERMINED BY THE DEPARTMENT</u>: Provided, however, That upon the expiration of existing FLAs the current lessees shall be given priority and be entitled to an extension of twenty-five (25) years in the utilization of their respective leased areas. Thereafter, such FLAs shall be granted to any Filipino citizen with preference, primarily to qualified fisherfolk cooperatives/associations as well as small and medium enterprises as defined under Republic Act No. 8289: Provided, further, That the Department shall declare as reservation, portions of available public lands certified as suitable for fishpond purposes for fish sanctuary, conservation, and ecological purposes: Provided , finally, that two (2) years after the approval of this Act, no fish pens or fish cages or fish traps shall be allowed in lakes.</p>	<ol style="list-style-type: none"> 1. Use of appropriate term (i.e., lessee instead of fisherfolk). 2. If the purpose is to include salt production in the utilization of leased public lands for fishpond purposes (refer to proposed ASIN LAW). Then, there is a need to add the term FISH/AQUATIC products in the recommended draft.
<p>SEC. 47. Code of Practice for <u>GOOD Aquaculture PRACTICES</u>. – The Department shall establish a code of practice <u>GUIDELINES FOR GOOD AQUACULTURE PRACTICES (GAqP)</u> for aquaculture that will outline general principles and guidelines for environmentally sound design and operation to promote the sustainable development of the industry <u>FOOD SAFETY, TRACEABILITY, SOCIO-ECONOMIC, ANIMAL HEALTH AND WELFARE</u>. Such Code shall be developed through a consultative process with the DENR, the fishworkers, FLA holders, fishpond owners, fisherfolk cooperatives, small-scale operators, research institutions and the academe, and other potential stakeholders. The Department may consult with specialized international organizations in the formulation of the code of practice.</p>	<p>Use of appropriate term (i.e., good aquaculture practices).</p>
<p>SEC. 48. Incentives and Disincentives for Sustainable <u>GOOD Aquaculture Practices</u>. – The Department shall formulate incentives and disincentives, such as, but not limited to, effluent charges, user fees and negotiable permits, to encourage compliance with the environmental standards and to promote sustainable management practices.</p>	<p>Use of appropriate term (i.e., good aquaculture practices).</p>



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RECOMMENDED FORMULATION	ISSUE
<p>SEC. 49. Reversion of All Abandoned, Undeveloped or Underutilized Fishponds. - The DENR, in coordination with the DA-BFAR, LGUs, other concerned agencies and FARMCs shall determine which abandoned, undeveloped or underutilized fishponds covered by FLAs <u>CAN BE UTILIZED FOR FISH/AQUATIC PRODUCTION PURPOSES OR MAY BE</u> can be reverted to their original mangrove state. <u>FOR PURPOSES OF REVERSION OF ABANDONED, UNDEVELOPED OR UNDERUTILIZED FISHPONDS, THE DENR, IN COORDINATION WITH THE DA-BFAR, AND OTHER CONCERNED AGENCIES,</u> and after having made such determination shall take all steps necessary to restore such areas in their original mangrove state.</p>	<p>Under the current provision of the law, all AUU fishponds shall be reverted to its original mangrove state although it can still be developed for fishery operations or for other production purposes.</p>
<p>SEC. 57. Registration of Fish Hatcheries <u>FISH PENS, FISH CAGES and Private Fishponds, etc.</u> - All fish hatcheries, <u>FISH PENS, FISH CAGES,</u> fish breeding facilities and private fishponds must be registered with the LGUs which shall prescribe minimum standards for such facilities in consultation with the Department: Provided, That the Department shall conduct a yearly inventory of all fishponds, fish pens and fish cages whether in public or private lands: Provided, further that all fishpond, fish pen and fish cage <u>AQUACULTURE AND MARICULTURE</u> operators shall annually report to the Department <u>DA-BFAR</u> the type of species and volume of production in areas devoted to aquaculture.</p>	<p>The registration of Fish Hatcheries and Private Fishponds does not have a national standard template or database like FishR or BoatR. Also, the guidelines on registration has not been established.</p>
<p>SEC. 70. Creation and Composition of the National Fisheries and Aquatic Resources Management Council (NFARMC). - There is hereby created a National Fisheries and Aquatic Resources Management Council hereinafter referred to as NFARMC as an advisory/recommendatory body to the Department. The NFARMC shall be composed of fifteen (15) <u>SEVENTEEN (17)</u> members consisting of:</p> <ul style="list-style-type: none"> a. the Undersecretary of Agriculture, as Chairman; b. the Undersecretary of the Interior and Local Government; c. five (5) members representing the fisherfolk and fishworkers; d. five (5) members representing commercial fishing and aquaculture operators and the processing sectors; <u>d. THREE (3) MEMBERS REPRESENTING OPERATORS OF SMALL-SCALE, MEDIUM-SCALE AND LARGE-SCALE FISHING VESSELS;</u> <u>e. TWO (2) MEMBERS REPRESENTING THE AQUACULTURE OPERATORS;</u> 	<p>Insufficient representation of aquaculture and processing sectors</p>



<p><u>f. TWO (2) MEMBERS REPRESENTING THE PROCESSING SECTORS:</u> e. <u>g.</u> two (2) members from the academe; and f. <u>h.</u> one (1) representative of NGOs involved in fisheries. The members of the NFARMC, except for the Undersecretary of Agriculture and Undersecretary of the Interior and Local Government, shall be appointed by the President upon the nomination of their respective organizations.</p>	
<p>SEC. 86. <i>Unauthorized Fishing.</i> – (a) It shall be unlawful for any person to capture or gather or to cause the capture or gathering of fish, fry or fingerlings of any fishery species or fishery products without license or permit from the Department or LGU, WHICHEVER IS APPLICABLE.</p> <p>Except in cases specified under this Code, (b) it shall also be unlawful for any commercial fishing vessel to fish in municipal waters, <u>EXCEPT IN CASES SPECIFIED UNDER THIS CODE.</u></p> <p>xxx</p>	<p>Need to emphasize that there are three (3) prohibited acts in section 86 and avoid scenarios where enforcers merely charge one (1) violation</p>
<p>SEC. 95. <i>Use of Active PROHIBITED Gear in Municipal Waters, Bays and Other Fishery Management Areas.</i> – It shall be unlawful to engage in fishing in municipal waters and in all bays as well as other fishery management areas using active <u>USING PROHIBITED</u> fishing gears as defined in this Code <u>MAY BE DETERMINED BY THE DEPARTMENT.</u></p> <p>xxx</p>	
<p>SEC. 96. <i>Ban on Coral Exploitation and Exportation.</i> – x x x</p> <p>Upon a summary finding of administrative liability, the owner/operator of the fishing vessel/s, boat captain, master fisherman, and recruiter or organizer of fishworkers <u>OFFENDER</u> shall be punished with an administrative fine equivalent to eight (8) times the value of the corals gathered, possessed, commercially transported, sold, or exported, or the amount of Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), whichever is higher, and forfeiture of the subject corals. The offender shall also pay compensation for the restoration of the damaged corals reefs.</p> <p>Upon conviction by a court of law, the boat captain, master fisherman, and recruiter or organizer of fishworkers, <u>OFFENDER</u> shall be punished by imprisonment from ten (10) years to twenty (20) years and a fine equivalent to twice the administrative fine and forfeiture of the subject corals.</p> <p>The offender shall also be required to pay the cost of restoration of the damaged coral reefs based on available studies and as determined by the Department. (aa)</p>	<p>There are offenders who exports or exploits corals that are not owner/operator of the fishing vessel/s, boat captain, master fisherman, and recruiter or organizer of fishworkers. The intent of the law is to prohibit coral exploitation and exportation.</p>



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RECOMMENDED FORMULATION	ISSUE
<p>SEC. 98. <i>Illegal Use of Superlights or Fishing Light Attractor FOR FISHING.</i> – It shall be unlawful to engage in fishing with the use of superlight in municipal waters, or to fish with fishing light attractor using candlelight power or intensity beyond the standards set by the Department in consultation with the LGUs for fishing in municipal waters, or in violation of the rules promulgated by the Department for fishing with the use of superlight or fishing light attractor outside municipal waters.</p> <p>XXX</p>	<p>To be consistent with the amendments made in Section 44.</p>