



Republic of the Philippines
DEPARTMENT OF AGRICULTURE
Office of the Secretary
Elliptical Road, Diliman, Quezon City 1100
Philippines

FISHERIES ADMINISTRATIVE)
ORDER NO. 200 :
Series of 2000)

SUBJECT: **Guidelines and Procedures in Implementing Section 87 of the Philippine Fisheries Code of 1998**

Pursuant to Section 87 of RA 8550, otherwise known as the Philippine Fisheries Code of 1998 and Section 87.1 of the Department of Agriculture Administrative Order No. 3 Series of 1998, providing for its Implementing Rules and Regulations, and in order to effectively implement the provisions of the said section, the following guidelines and procedures are hereby promulgated:

SECTION 1. Definition of Terms. – As used in this Order, the following terms shall mean:

- a. Poaching – means fishing or operating any fishing vessel in Philippine waters committed by any foreign person, or entity, provided that this does not include foreigners engaged in leisure or game fishing as may be defined by the Department pursuant to Section 86.1 of DAO No. 3 Series of 1998;
- b. Prima facie evidence – means one which establishes a fact and unless rebutted or explained by the evidence becomes conclusive and is to be considered as if fully proved;
- c. Philippine territorial waters – all waters from the baselines to the outer limits described in the Treaty of Paris of 10 December 1898, the treaty concluded at Washington, D.C. between the United States and Spain on 7 November 1900, the agreement between the United States and the United Kingdom of 2 January 1930, and the Convention of 6 July 1932 between the United States and Great Britain; and described in the Republic Act No. 3046 (as amended);
- d. Exclusive Economic Zone or EEZ – an area beyond and adjacent to the territorial sea which shall not extend beyond 200 nautical miles from the baselines as defined under existing laws;
- e. Internal waters – all waters around, between and connecting different islands belonging to the Philippine Archipelago, irrespective of their width or dimension, are necessary appurtenances of its land territory, forming an integral part of the national or inland waters, subject to the exclusive sovereignty of the Philippines;
- f. Foreign Fishing Vessel (FFV) – a fishing vessel not duly licensed with the Philippine government.

SEC. 2. Prohibition – It shall be unlawful for any foreign person, corporation or entity to fish or operate any fishing vessel in Philippine waters;

SEC. 3. Prima facie Evidence of Poaching. – The entry of any foreign fishing vessel in the Philippine waters shall constitute a prima facie evidence that the vessel is engaged in poaching in Philippine waters under the following circumstances:

- a. Entry of a FFV into Philippine waters under the following circumstances:
 1. Navigating with its fishing gear deployed and/or not stowed;
 2. Navigating with an irregular track or route;
 3. Navigating through Philippine territorial waters without prior notice to, clearance of, or permission from the appropriate Philippine authority;

4. Navigating in a manner that does not qualify as innocent passage not navigating outside traditional routes or in identified fishing grounds;
 5. Navigating without flying its national flag.
- b. When a FFV is found within Philippine waters:
1. Under the circumstances enumerated in the previous paragraph;
 2. Lying-to or anchoring without any valid reasons or circumstances that may indicate the existence of force majeure, distress, or for the purpose of rendering assistance to persons, ships or any sea craft that is endangered or in distress;
 3. Lying-to, anchoring at, or anchoring near to or within known fishing grounds or marine protected areas.
- c. When a FFV, after having been inspected within Philippine waters, in accordance with the procedures set forth in this FAO, is found to contain freshly caught fish on deck or in storage, corals, mollusks.

SEC 4. Reports by Philippine Commercial Fishing Vessels or Municipal Fishers. – When a FFV has been reported by any person to be suspected of poaching in Philippine waters, any of the persons authorized to enforce this Order shall immediately take action to pursue and conduct an inspection of the FFV in question, to determine whether it is in fact engaged in poaching.

SEC. 5. Persons Authorized to Enforce this Order. – The following are authorized to enforce the provisions of this Order:

- a. Law enforcement officers of the Bureau of Fisheries and Aquatic Resources
- b. The Philippine Navy
- c. The Philippine Coast Guard
- d. The Philippine National Police Maritime Group
- e. Law enforcement officers of the local government units
- f. Duly deputized Fish Wardens of the Bureau of Fisheries and Aquatic Resources

The Secretary may deputize through the Bureau of Fisheries and Aquatic Resources other competent government officials an employees, the Punong Barangays of all coastal provinces, cities, municipalities, and barangays, officers and members of the fishermen's associations who have undergone training on law enforcement by BFAR as Fish Wardens to enforce the provisions of this Order, as well as all other existing and related fishery laws, rules and regulations.

SEC. 6. Inspection and Apprehension Procedure. – The following constitute inspection and apprehension procedures:

- a. Upon receipt of a report that a FFV is engaged in poaching, or upon the sighting of a FFV under any of the circumstances enumerated under Section 1(a) and 1(b), the officer/s or person/s authorized to enforce this Order shall establish the violation, exact location with coordinates of the FFV and its distance: from the nearest shore, nature of and/or cause of apprehension, whether condition at the time of sighting or apprehension, and the description/condition of the FFV with appropriate identifying features and marks during sighting and apprehension. Where practicable, photographs of the FFV should be taken.

- b. The FFV shall be approached to within a safe distance to the leeward side of the ship, and given visible or audible signals for the vessel to stop.
- c. Once the FFV has stopped, the officer or person authorized to enforce this Order shall clearly identify himself and the unit or organization to which he belongs. He shall state clearly that he wishes to conduct an inspection of the FFV on the ground that he has reason to suspect that the FFV may be engaged in poaching, and therefore committing a violation of Philippine law.
- d. Upon boarding the FFV, the master of the vessel shall be asked to stop its operations and drop anchor, the captain and crew shall be identified. As far as practicable, the state of the fishing gear at the time of boarding, any visible catch that may be on deck, and other conditions on board the FFV which indicate that it is poaching, shall be recorded. The positions of the FFV shall be plotted on the map indicating its location. A technician or engineer from the apprehending vessel should ascertain and record the status of the engine of the apprehended vessel. The status of all navigational and other instruments in the vessel, whether it is working and operational at the time of apprehension, should be indicated as detailed as possible.
- e. The boarding officer should read to the arrested persons his/her rights under the Philippine Constitution in English, or in common language or dialect of the arrested person, if possible.
- f. The master of the vessel shall be required to sign and conform with the plotted position of the FFV and be informed of the violation committed.
- g. The registration papers, logbook and navigational chart of the FFV, the Seaman's Book and other documents should be confiscated as evidence, to enable the proper authorities to establish the sailing experience of the apprehended person, and for review by the same appropriate Philippine authorities (PN, PCG, PNP/MARIG, etc.)
- h. In the absence of such documents, the apprehending officer should inquire from the master of the FFV of his years of sailing experience, and which should be duly indicated in an Investigation and Apprehension Report.
- i. The apprehending agency shall take custody of the evidence until turned over to the concerned government agency or inter-agency committee for its proper disposition.
- j. The captain of the FFV shall bring the vessel or towed by the apprehending vessel to the nearest port.
- k. A more thorough inspection of the vessel shall be conducted as soon as the FFV has docked at port. An Investigation and Apprehension Report shall be prepared and sent to the Department of Agriculture and the Bureau of Fisheries Head office copy furnished the National Committee on Illegal Entrants of the Department of Foreign Affairs, and the Bureau of Immigration.
- l. The fishing gear found on the FFV shall be impounded, Any fish found on the vessel shall be confiscated, photographed, the species, numbers, and volume duly recorded as if the same were duly landed by a domestic fishing vessel, and thereafter donated to charitable and penal institutions within the vicinity where the violation was committed, *Provided*, that the Directors thereof execute a promissory note of their willingness to pay the face value of the catch if the accused are acquitted from the charge. The FFV subject of the offense shall be examined thoroughly by BFAR assessing its efficiency and effectiveness in catching fish before auctioning the same, the proceeds of which shall be submitted automatically to the National Treasury in accordance to PD 1177.
- m. The apprehending authorities shall turn over the arrested illegal entrants to the police or military authorities in his/her jurisdiction for the temporary detention; the National, Regional or Provincial Committee on Illegal Entrants; or to the Bureau of Immigration to be dealt with in accordance to applicable immigration laws.

SEC. 7. Submission of Reports. – Persons duly authorized to enforce this Order shall submit a report of accomplishments to their respective agencies concerned, copies furnished to the nearest office of the Bureau of Fisheries and Aquatic Resources.

SEC. 8. Penalties. – Violation of Sections 2 & 3 of this Order shall subject the offender to prosecution and upon conviction shall be punished by a fine of not exceeding US\$ 100,000.00 and confiscation of its catch, fishing paraphernalia and vessel. *Provided*, that the Secretary of Agriculture upon the recommendation of the Director of the Bureau of Fisheries and Aquatic Resources is empowered to impose an additional administrative fine of not less than US\$ 50,000.00 but not more than US 200,000.00 or its equivalent in Philippine currency.

SEC. 9. Effectivity. – This Order shall take effect fifteen (15) days after its publication in the Official Gazette and/or in two (2) newspapers of general circulation.

(SGD) **EDGARDO J. ANGARA**
Secretary

RECOMMENDING APPROVAL:

(SGD) **MALCOLM I. SARMIENTO JR.**
Director
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