

May 8, 1998

**DEPARTMENT OF AGRICULTURE)
ADMINISTRATIVE)
ORDER NO. 3 :
Series of 1998)**

**IMPLEMENTING RULES AND REGULATIONS
Pursuant to Republic Act No. 8550: "AN ACT
PROVIDING FOR THE DEVELOPMENT, MANAGEMENT AND CONSERVATION
OF THE FISHERIES AND AQUATIC RESOURCES, INTEGRATING ALL
LAWS PERTINENT THERETO, AND FOR OTHER PURPOSES"**

SEC. 1. Title. – This Act shall be known as – The Philippine Fisheries Code of 1998

Rule 1.1 Title. – These Rules shall be known and cited as the Implementing Rules and Regulations (IRR) of the Philippine Fisheries Code of 1998;

Rule 1.2 Purpose. – These Rules are promulgated to prescribe the procedures and guidelines for the implementation of the Philippine Fisheries Code of 1998 to facilitate compliance therewith and achieve the objectives thereof.

**CHAPTER I
DECLARATION OF POLICY AND DEFINITIONS**

SEC. 2. Declaration of Policy. - It is hereby declared the policy of the State:

a.

to achieve food security as the overriding consideration in the utilization, management, development, conservation and protection of fishery resources in order to provide the food needs of the population. A flexible policy towards the attainment of food security shall be adopted in response to changes in demographic trends for fish, emerging trends in the trade of fish and other aquatic products in domestic and international markets, and the law of supply and demand;

b.

to limit access to the fishery and aquatic resources of the Philippines for the exclusive use and enjoyment of Filipino citizens;

c.

to ensure the rational and sustainable development, management and conservation of the fishery and aquatic resources in Philippine waters including the Exclusive Economic Zone (EEZ) and in the adjacent high seas, consistent with the primordial objective of maintaining a sound ecological balance, protecting and enhancing the quality of the environment;

d.

to protect the rights of fisherfolk, specially of the local communities with priority to municipal fisherfolk, in the preferential use of the municipal waters. Such preferential use, shall be based on, but not limited to, Maximum Sustainable Yield (MSY) or Total Allowable Catch (TAC) on the basis of resources and ecological conditions, and shall be consistent with our commitments under international treaties and agreements;

e.

to provide support to the fishery sector, primarily to the municipal fisherfolk, including women and youth sectors, through appropriate technology and research, adequate financial, production, construction of post-harvest facilities, marketing assistance, and other services. The protection of municipal fisherfolk against foreign intrusion shall extend to offshore fishing grounds. Fishworkers shall receive a just share for their labor in the utilization of marine and fishery resources;

f.

to manage fishery and aquatic resources, in a manner consistent with the concept of an integrated coastal area management in specific natural fishery management areas, appropriately supported by research, technical services and guidance provided by the State, and

g.

to grant the private sector the privilege to utilize fishery resources under the basic concept that the grantee, licensee or permittee thereof shall not only be a privileged beneficiary of the State but also an active participant and partner of the government in the sustainable development, management, conservation and protection of the fishery and aquatic resources of the country.

The State shall ensure the attainment of the following objectives of the fishery sector:

1.

Conservation, protection and sustained management of the country's fishery and aquatic resources;

2.

Poverty alleviation and the provision of supplementary livelihood among municipal fisherfolk;

3.

Improvement of productivity of aquaculture within ecological limits;

4.

Optional utilization of offshore and deep-sea resources; and

5.

Upgrading of post-harvest technology.

SEC. 3. Application of its Provisions. - The provisions of this Code shall be enforced in:

a.

all Philippine waters including other waters over which the Philippines has sovereignty and jurisdiction, and the country's 200 nautical mile Exclusive Economic Zone (EEZ) and continental shelf;

b.

all aquatic and fishery resources whether inland, coastal or offshore fishing areas, including but not limited to fishponds, fish pens/cages; and

c.

all lands devoted to aquaculture, or businesses and activities relating to fishery, whether private or public lands.

Rule 3.1 Jurisdiction. – The Department, through the Bureau of Fisheries and Aquatic Resources (BFAR), in cooperation with concerned national agencies, shall have the responsibility and jurisdiction in the management, conservation, development, protection, utilization, and disposition of all fisheries and aquatic resources of the country, except municipal waters. However, in municipal waters the DA-BFAR may coordinate with and assist the LGUs, FARMCs, and other government agencies concerned in the development, conservation, protection, utilization and management of fisheries and aquatic resources.

Rule 3.2 The Department and the Department of Environment and Natural Resources (DENR) shall, within one (1) year from the effectivity of this IRR, issue a Joint Memorandum Order to clarify their respective jurisdiction and authority on the management of fisheries resources.

Sec. 4. Definition of Terms. - As used in this Code, the following terms and phrases shall mean as follows:

1.

Ancillary Industries - firms or companies related to the supply, construction and maintenance of fishing vessels, gears, nets and other fishing paraphernalia; fishery machine shops; and other facilities such as hatcheries, nurseries, feed plants, cold storage, and refrigeration, processing plants and other pre-harvest and post harvest facilities.

2.

Appropriate Fishing Technology - adaptable technology, both in fishing and ancillary industries, that is ecologically sound, locally source-based and labor intensive.

3.

Aquaculture - fishery operations involving all forms of raising and culturing fish and other fishery species in fresh, brackish and marine areas.

4.

Aquatic Pollution - the introduction by human or machine, directly or indirectly, of substances or energy to the aquatic environment which result or is likely to result in such deleterious effects as to harm living and non-living aquatic resources, pose potential and/or real hazard to human health, hindrance to aquatic activities such as fishing and navigation, including dumping/disposal of waste and other marine litters, discharge of petroleum or residual products of petroleum or carbonaceous materials/substances and other radioactive, noxious or harmful liquid, gaseous or solid substances, from any water, land or air transport or other human-made structure. Deforestation, unsound agricultural practices such as the use of banned chemicals and excessive use of chemicals, intensive use of artificial fish feed, and wetland conversion, which cause similar hazards and deleterious effects shall also constitute aquatic pollution.

5.

Aquatic resources - includes fish, all other aquatic flora and fauna and other living resources of the aquatic environment, including but not limited to salt and corals.

6.

Artificial Reefs - any structure of natural or man-made materials placed on a body of water to serve as shelter and habitat, source of food, breeding areas for fishery species and shoreline protection.

7.

Catch Ceilings - refer to the annual catch limits allowed to be taken, gathered or harvested from any fishing area in consideration of the need to prevent overfishing and harmful depletion of breeding stocks of aquatic organisms.

8.

Closed Season - the period during which the taking of specified fishery species by a specified fishing gear is prohibited in a specified area or areas in Philippine waters.

9.

Coastal Area/Zone - is a band of dry land and adjacent ocean space (water and submerged land) in which terrestrial processes and uses directly affect oceanic processes and uses, and vice versa; its geographic extent may include areas within the landmark limit of one (1) kilometer from the shoreline at high tide to include mangrove swamps, brackish water ponds, nipa swamps, estuarine rivers, sandy beaches and other areas within a seaward limit of 200 meters isobath to include coral reefs, algal flats, seagrass beds and other soft-bottom areas.

10.

Commercial Fishing - the taking of fishery species by passive or active gear for trade, business or profit beyond subsistence or sports fishing, to be further classified as:

1.

Small scale commercial fishing - fishing with passive or active gear utilizing fishing vessels of 3.1 gross tons (GT) up to twenty (20) GT;

2.

Medium scale commercial fishing - fishing utilizing active gears and vessels of 20.1 GT up to one hundred fifty (150) GT; and

3.

Large scale commercial fishing - fishing utilizing active gears and vessels of more than one hundred fifty (150) GT.

11.

Commercial scale - a scheme of producing a minimum harvest per hectare per year of milkfish or other species including those raised in pens, cages, and tanks to be determined by the Department in consultation with the concerned sectors.

12.

Coral - the hard calcareous substance made up of the skeleton of marine coelenterate polyps which includes reefs, shelves and atolls or any of the marine coelenterate animals living in colonies where their skeletons form a stony mass. They include: (a) skeletons of anthozoan coelenterates characterized as having a rigid axis of compact calcareous or horny spicules, belonging to the genus corallium as represented by the red, pink and white corals which are considered precious corals; (b) skeletons of anthozoan coelenterates characterized by thorny, horny axis such as the antipatharians represented by the black corals which are considered semi-precious corals; and (c) ordinary corals which are any kind of corals that are not precious nor semi-precious.

13.

Coral Reef - a natural aggregation of coral skeleton, with or without living coral polyps, occurring in intertidal and subtidal marine waters.

14.

Demarcated areas - boundaries defined by markers and assigned exclusively to specific individuals or organizations for certain specified and limited uses such as:

a. Aquaculture, sea ranching and sea farming;

b. Fish aggregating devices;

c. Fixed and passive fishing gears; and a

d. Fry and fingerling gathering.

15.

Department - shall mean the Department of Agriculture.

16.

Electrofishing - the use of electricity generated by batteries, electric generators and other source of electric power to kill, stupefy, disable or render unconscious fishery species, whether or not the same are subsequently recovered.

17.

Endangered, Rare and/or Threatened Species - aquatic plants, including some varieties of corals and sea shells in danger of extinction as provided for existing fishery laws, rules and regulations or in the Protected Areas and Wildlife Bureau of the Department of Environment and Natural Resources (DENR) and in the Convention of the International Trade of Endangered Species of Flora and Fauna (CITES).

18.

Exclusive Economic Zone (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.

19.

FARMC's - the Fisheries and Aquatic Resources Management Councils.

20.

Farm-to-Market Roads - shall include roads linking the fisheries production sites, coastal landing points and other post-harvest facilities to major market and arterial roads and highways.

21.

Fine Mesh Nets - net with mesh size of less than three centimeters (3 cm.) measured between two (2) opposite knots of a full mesh when stretched or as otherwise determined by the appropriate government agency.

22.

Fish and Fishery/Aquatic Products - include not only finfish but also mollusk, crustaceans, echinoderms, marine mammals, and all other species of aquatic flora and fauna and all other products of aquatic living resources in any form.

23.

Fish cage - refers to an enclosure which is either stationary or floating made up of nets or screens sewn or fastened together and installed in the water with opening at the surface or covered and held in a place by wooden/bamboo posts or various types of anchors and floats.

24.

Fish Corral or "Baklad" - a stationary weir or trap devised to intercept and capture fish consisting of rows of bamboo stakes, plastic nets and other materials fenced with split bamboo

matings or wire matings with one or more enclosures, usually with easy entrance but difficult exit, and with or without leaders to direct the fish to the catching chambers, purse or bags.

25. Fish Fingerlings - a stage in the life cycle of the fish measuring to about 6-13 cm. depending on the species.

26. Fish Fry - a stage at which a fish has just been hatched usually with sizes from 1-2.5 cm.
27.

Fish pen - an artificial enclosure constructed within a body of water for culturing fish and fishery/aquatic resources made up of poles closely arranged in an enclosure with wooden materials, screen or nylon netting to prevent escape of fish.

28. Fisherfolk - people directly or personally and physically engaged in taking and/or culturing and processing fishery and/or aquatic resources.

29.

Fisherfolk Cooperative - a duly registered association of fisherfolk with a common bond of interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contribution to the capital requirement and accepting a fair share of the risks and benefits of the undertakings in accordance with universally accepted cooperative principles.

30.

Fisherfolk Organizations - an organized group, association, federation, alliance or an institution of fisherfolk which has at least fifteen (15) members, a set of officers, a constitution and by-laws, an organizational structure and a program of action.

31.

Fisheries - refers to all activities relating to the act or business of fishing, culturing, preserving, processing, marketing, developing, conserving and managing aquatic resources and the fishery areas, including the privilege to fish or take aquatic resource thereof.

32.

Fish Pond - a land-based facility enclosed with earthen or stone material to impound water for growing fish.

33.

Fishing Boat/Gear License - a permit to operate specific types of fishing boat/gear for specific duration in areas beyond municipal waters for demersal or pelagic fishery resources.

34.

Fishery Management Areas - a bay, gulf, lake or any other fishery area which may be delineated for fishery resource management purposes.

35.

Fishery Operator - one who owns and provides the means including land, labor, capital, fishing gears, and vessels, but does not personally, engage in fishery.

36.

Fishery Refuge and Sanctuaries - a designated area where fishing or other forms of activities which may damage the ecosystem of the area is prohibited and human access may be restricted.

37.

Fishery Reserve - a designated area where activities are regulated and set aside for educational and research purposes.

38.

Fishery Species - all aquatic flora and fauna including, but not restricted to, fish, algae, coelenterates, mollusks, crustaceans, echinoderms and cetaceans.

39.

Fishing - the taking of fishery species from their wild state or habitat, with or without the use of fishing vessels.

40.

Fishing gear - any instrument or device and its accessories utilized in taking fish and other fishery species.

a.

Active fishing gear - is a fishing device characterized by gear movement, and/or the pursuit of the target species by towing, lifting, and pushing the gears, surrounding, covering, dredging, pumping and scaring the target species to impoundments; such as, but not limited to, trawl, purse seines, Danish seines, bag nets, paaling, drift gill net and tuna longline.

b.

Passive fishing gear - is characterized by the absence of gear movements and/or the pursuit of the target species; such as, but not limited to hook and line, fishpots, traps and gill nets across the path of the fish.

41.

Fishing vessel - any boat, ship or other watercraft equipped to be used for taking of fishery species or aiding or assisting one (1) or more vessels in the performance of any activity relating to fishing, including, but not limited to, preservation, supply, storage, refrigeration, transportation and/or processing.

42.

Fishing with Explosives - the use of the dynamite, other explosives or other chemical compounds that contains combustible elements or ingredients which upon ignition by friction, concussion, percussion or detonation of all or parts of the compound, will kill, stupefy, disable or render unconscious any fishery species. It also refers to the use of any other substance and/or device which causes an explosion that is capable of producing the said harmful effects on any fishery species and aquatic resources and capable of damaging and altering the natural habitat.

43.

Fishing with Noxious or Poisonous Substances - the use of any substance, plant extracts or juice thereof, sodium cyanide and/or cyanide compounds or other chemicals either in a raw or processed form, harmful or harmless to human beings, which will kill, stupefy, disable or render unconscious any fishery species and aquatic resources and capable of damaging and altering the natural habitat.

44.

Fishworker - a person regularly or not regularly employed in commercial fishing and related industries, whose income is either in wage, profit-sharing or stratified sharing basis, including those working in fish pens, fish cages, fish corrals/traps, fishponds, prawn farms, sea farms, salt beds, fish ports, fishing boat or trawlers, or fish processing and/or packing plants. Excluded from this category are administrators, security guards and overseers.

45.

Food Security - refers to any plan, policy or strategy aimed at ensuring adequate supplies of appropriate food at affordable prices. Food security may be achieved through self-sufficiency (i.e. ensuring adequate food supplies from domestic production), through self-reliance (i.e. ensuring adequate food supplies through a combination of domestic production and importation), or through pure importation

46.

Foreshore Land - a string of land margining a body of water, the part of a seashore between the low-water line usually at the seaward margin of a low tideterrace and the upper limit of wave wash at high tide usually marked by a beach scarp or berm.

47.

Fully-developed Fishpond Area - a clean leveled area enclosed by dikes, at least one foot higher than the highest floodwater level in the locality and strong enough to resist pressure at the highest flood tide; consists of at least a nursery pond, a transition pond, a rearing pond or a combination of any or all said classes of ponds, and a functional water control system and producing in a commercial scale.

48.

Gross Tonnage - includes the underdeck tonnage, permanently enclosed spaces above the tonnage deck, except for certain exemptions. In broad terms, all the vessel's 'closed-in' spaces expressed in volume terms on the bases of one hundred cubic feet (that equals one gross ton).

49.

Inland Fishery - the freshwater fishery and brackishwater fishponds.

50.

Lake - an inland body of water, an expanded part of a river, a reservoir formed by a dam, or a lake basin intermittently or formerly covered by water.

51.

Limited Access - a fishery policy by which a system of equitable resource use and allocation is established by law through fishery rights granting and licensing procedure as provided by this Code.

52.

Mangroves - a community of intertidal plants including all species of trees, shrubs, vines and herbs found on coasts, swamps, or border of swamps.

53.

Maximum Sustainable Yield (MSY) - is the largest average quantity of fish that can be harvested from a fish stocks/resource within a period of time (e.g. one year) on a sustainable basis under existing environmental conditions.

54.

Migratory species - refers to any fishery species which in the course of their life could travel from freshwater to marine water or vice versa, or any marine species which travel over great distances in waters of the ocean as part of their behavioral adaptation for survival and speciation:

(a) Anadromous species - marine fishes which migrate to freshwater areas to spawn;

(b) Catadromous species - freshwater fishes which migrate to marine areas to spawn;

55 Monitoring, Control and Durveillance -

a)

Monitoring - the requirement of continuously observing: (1) fishing effort which can be expressed by the number of days or hours of fishing, number of fishing gears and number of fisherfolk; (2) characteristics of fishery resources; and (3) resource yields (catch);

b)

Control - the regulatory conditions (legal framework) under which the exploitation, utilization and disposition of the resources may be conducted; and

c)

Surveillance - the degree and types of observations required to maintain compliance with regulations.

56.

Municipal fisherfolk - persons who are directly or indirectly engaged in municipal fishing and other related fishing activities.

57.

Municipal fishing - refers to fishing within municipal waters using fishing vessels of three (3) gross tons or less, or fishing not requiring the use of fishing vessels.

58.

Municipal waters - include not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the protected areas as defined under Republic Act No. 7586 (The NIPAS Law), public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two (2) lines drawn perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline including offshore islands and fifteen (15) kilometers from such coastline. Where two (2) municipalities are so situated on opposite shores that there is less than thirty (30) kilometers of marine waters between them, the third line shall be equally distant from opposite shore of the respective municipalities.

59.

Non-governmental organization (NGO) - an agency, institution, a foundation or a group of persons whose purpose is to assist peoples organizations/associations in various ways including, but not limited to, organizing, education, training, research and/or resource accessing.

60.

Payao - a fish aggregating device consisting of a floating raft anchored by a weighted line with suspended materials such as palm fronds to attract pelagic and schooling species common in deep waters.

61.

Pearl Farm Lease - public waters leased for the purpose of producing cultured pearls.

62.

People's Organization - a bonafide association of citizens with demonstrated capacity to promote the public interest and with identifiable leadership, membership and structure. Its members belong to a sector/s voluntarily band themselves together to work for and by themselves for their own upliftment, development and greater good.

63.

Person - natural or juridical entities such as individuals, associations, partnership, cooperatives or corporations.

64.

Philippine waters - include all bodies of water within the Philippine territory such as lakes, rivers streams, creeks, brooks, ponds, swamps, lagoons, gulfs, bays and seas and other bodies of water now existing or which may hereafter exist in the provinces, cities, municipalities, and barangays and the waters around, between and connecting the islands of the archipelago regardless of their breadth and dimensions, the territorial sea, the sea beds, the insular shelves, and all other waters over which the Philippines has sovereignty and jurisdiction including the 200-nautical miles Exclusive Economic Zone and the continental shelf.

65.

Post-harvest facilities - these facilities include, but are not limited to, fishport, fishlanding, ice plants and cold storages, fish processing plants.

66.

Purse Seine - a form of encircling net having a line at the bottom passing through rings attached to the net, which can be drawn or pursed. In general, the net is set from a boat or pair of boats around the school of fish. The bottom of the net is pulled closed with the purse line. The net is then pulled aboard the fishing boat or boats until the fish are concentrated in the bunt or fish bag.

67.

Resource Rent - the difference between the value of the products produced from harvesting a publicly owned resource less the cost of producing it, where cost includes the normal return to capital and normal return to labor.

68.

Sea farming - the stocking of natural or hatchery-produced marine plants or animals, under controlled conditions, for purposes of rearing and harvesting, but not limited to commercially-important fishes, mollusks (such as pearl and giant clam culture), including seaweeds and seagrass.

69.

Sea ranching - the release of the young of fishery species reared in hatcheries and nurseries into natural bodies of water for subsequent harvest at maturity or the manipulation of fishery habitat, to encourage the growth of the wild stocks.

70.

Secretary - the Secretary of the Department of Agriculture.

71.

Superlight - also called magic light, is a type of light using halogen or metal halide bulb which may be located above the sea surface or submerged in the water. It consists of a ballast, regulator, electric cable and socket. The source of energy comes from a generator, battery or dynamo coupled with the main engine.

72.

Total Allowable Catch (TAC) - the maximum harvest allowed to be taken during a given period of time from any fishery area, or from any fishery species or group of fishery species, or a combination of area and species and normally would not exceed the MSY.

73.

Trawl - an active fishing gear consisting of a bag shaped net with or without otter boards to open its opening which is dragged or towed along the bottom or through the water column to take fishery species by straining them from the water, including all variations and modifications of trawls (bottom, mid-water, and baby trawls) and tow nets.

Rule 4.1 Additional Terms. – Additional terms and their definitions as used in this IRR but not included in Section 4 of RA No. 8550 are as follows:

CHAPTER II

UTILIZATION, MANAGEMENT, DEVELOPMENT, CONSERVATION AND ALLOCATION SYSTEM OF FISHERIES AND AQUATIC RESOURCES

SEC. 5. Use of Philippine Waters - The use and exploitation of the fishery and aquatic resources in Philippine waters shall be reserved exclusively to Filipinos: Provided, however, That research and survey activities may be allowed under strict regulations, for purely research, scientific, technological and educational purposes that would also benefit Filipino citizens.

Rule 5.1 Research, Scientific, Technological and Educational Activities. – The Department, through BFAR, shall issue the Fisheries Administrative Order (FAO) on regulations of research, scientific, technological, educational and survey activities that maybe undertaken by non-Filipinos.

SEC. 6. Fees and Other Fishery Charges. - The rentals for fishpond areas covered by the Fishpond Lease Agreement (FLA) and license fees for Commercial Fishing Boat Licenses (CFBL) shall be set at levels that reflect resource rent accruing from the utilization of resources and shall be determined by the Department: Provided, that the Department shall also prescribe fees and other fishery charges and issue the corresponding license or permit for fishing gear, fishing accessories and other fishery activities beyond the municipal waters: Provided, furthe, that the liense fees of fishery activity in municipal waters shall be determined by the Local Government Units (LGUs) in consultation with the FARMCs. The FARMCs may also recommend the appropriate license fees that will be imposed.

The Department, through the Bureau shall:

Rule 6.1 Rentals, License Fees and Other Fishery Charges. – Determine rentals for fishpond areas covered by the Fishpond Lease Agreement (FLA) and license fees for Commercial Fishing Boat License (CFBL) at levels that reflect resource rent accruing to the utilization of resources based on estimates from economic studies or best available evidence of economic rent; fees and other charges for gears, accessories and other fishery charges shall be based on rates sufficient to cover administrative costs;

Rule 6.2 Rentals for Fishpond Areas. - Issue, within one year from the effectivity of this IRR, the appropriate Fisheries Administrative Order (FAO), prescribing the rental rates for fishpond areas leased from government;

Rule 6.3 License Fees for Commercial Fishing Boats. – Issue within one year from the effectivity of this IRR, the FAO prescribing the license fees for CFBLs;

Rule 6.4 Fees and Other Fishery Charges. – Issue within one year from the effectivity of this IRR, the FAO prescribing the fees and other fishery charges for gears, accessories and other fishery activities;

Rule 6.5 Interim Period. – Continue to charge the present license fees until the FAO described in the preceding rules shall have been issued;

Rule 6.6 Technical Assistance. – Provide technical assistance to Local Government Units (LGUs) regarding local regulations on fees and other fishery charges.

SEC. 7. Access to Fishery Resources. - The Department shall issue such number of licenses and permits for the conduct of fishery activities subject to the limits of the MSY of the resource as determined by scientific studies or best available evidence. Preference shall be given to resource users in the local communities adjacent or nearest to the municipal waters.

The Department, through BFAR, shall:

Rule 7.1 Determination of MSY and TAC. – Determine, within three (3) years from the effectivity of this IRR and every three (3) years thereafter, through continuous stock assessment studies an estimate of the MSY and TAC of major fisheries, including but not limited to large pelagic, small pelagic, reef and demersal fisheries, for the entire Philippines and for each major fishing area;

Rule 7.2 Comprehensive Fisheries Information System. – Establish a comprehensive information network system at the national, regional and local levels, in cooperation with other concerned agencies, for collection, storage and retrieval of fisheries data ;

Rule 7.3 Coordination with Concerned Agencies. –Coordinate with the Bureau of Agricultural Statistics (BAS), Philippine Fisheries Development Authority (PFDA), LGUs and other agencies to ensure that the catch and effort statistics collected by the said agencies shall be in accordance with the data requirement of BFAR;

Rule 7.4 Inventory of Commercial Fishing Boats. –Conduct and complete within one (1) year from the effectivity of this IRR, an inventory of all commercial fishing boats and gears and their areas of operation;

Rule 7.5 Determination of the Number of Licenses. – Based on the MSY and TAC estimate or best available evidence, determine the number of licenses to be issued for commercial fishing boats for each major fisheries, major fishing area, vessel size categories, and by type of fishing gear and corresponding catch quota for each fishing boat: Provided, however, fishing boats

used to support fish production such as fish carriers, skiff boats, lightboats and sonar boats are not included under this limitation;

Rule 7.6 Priority Rights of Present Licensees. – Grant priority rights in the allocation of licenses to present Commercial Fishing Boat License (CFBL) holders for renewal of their license, provided that there is no record of violation of the terms and conditions of the license;

Rule 7.7 Preferential Allocation for Large Vessels. – Accord preference in the allocation of Commercial Fishing Vessel License (CFVL) to large fishing vessels to encourage fishing in the EEZ and beyond;

Rule 7.8 Criteria for Licensing of Small and Medium Commercial Fishing Vessels. – Undertake and complete within two years from the effectivity of this IRR, an extensive evaluation study of the technical capability of small and medium commercial fishing vessels to fish beyond the municipal waters; and based on the findings of such study, define the criteria for granting licenses to these small and medium-sized commercial vessels.

SEC. 8. Catch Ceiling Limitations. - The Secretary may prescribe limitations or quota on the total quantity of fish captured, for a specified period of time and specified area based on the best available evidence. Such a catch ceiling may be imposed per species of fish whenever necessary and practicable: Provided, however, That in municipal waters and fishery management areas, and waters under the jurisdiction of special agencies, catch ceilings may be established upon the concurrence and approval or recommendation of such special agency and the concerned LGU in consultation with the FARMC for conservation or ecological purposes.

The Secretary, through the Director, may:

Rule 8.1 Catching Ceiling. – Issue the appropriate FAO, based on the findings of stock assessment studies and estimate of MSY, the necessary total catch ceiling limitation for each major fishery and/or specific fishing area;

Rule 8.2 Catch Ceiling in Municipal Waters. – Establish catch ceilings in specified municipal waters or fisheries management areas and waters under the jurisdiction of special agencies through a Joint Memorandum Order between the Department, the concerned special agency or LGU after consultation with the FARMCs including provisions for its enforcement.

SEC. 9. Establishment of Closed Season. - The Secretary may declare, through public notice in at least two (2) newspapers of general circulation or in public service announcements, whichever is applicable, at least (5) days before the declaration, a closed season in any or all Philippine waters outside the boundary of municipal waters and in bays, for conservation and ecological purposes. The Secretary may include waters under the jurisdiction of special agencies, municipal waters and bays, and/or other areas reserved for the use of the municipal fisherfolk in the areas to be covered by closed season: Provided, however, That this shall be done only

upon the concurrence and approval or recommendation of such special agency and the concerned LGU and FARMC: Provided, further, That in municipal waters, fishery management areas and other areas reserved for the use of the municipal fisherfolk, closed season may be established by the concerned LGU in consultation with the FARMC for conservation or ecological purposes. The FARMCs may also recommend the establishment of closed seasons in municipal waters, fisheries management and other areas reserved for the use of municipal fisherfolk.

The Secretary, upon the recommendation of the Director, may:

Rule 9.1 Establishment of Closed Season. – Issue the appropriate FAO declaring a closed season regulation in a specific area, based on the findings of stock assessment studies, biological studies, other research studies or best available evidence;

Rule 9.2 Impact Assessment. –Undertake an impact assessment study upon the expiration of the closed season period to determine appropriate regulation;

Rule 9.3 Closed Season in Municipal Waters. – Include closed season regulations in waters under the jurisdiction of special agencies, municipal waters and bays, and/or other areas reserved for the use of the municipal fisherfolk upon the concurrence and approval or recommendation of such special agency and the concerned LGU and FARMC, in which case the concerned LGUs or special agencies shall, through appropriate municipal fisheries ordinance or resolution, cease to issue license/permits for fisheries activities in municipal waters and bays in closed season area.

SEC. 10. Introduction of Foreign Aquatic Species. - No foreign finfish, mollusk, crustacean or aquatic plants shall be introduced in Philippine waters without a sound ecological, biological and environmental justification based on scientific studies subject to the bio-safety standards as provided for by existing laws: Provided, however, That the Department may approve the introduction of foreign aquatic species for scientific/research purposes.

The Department, through BFAR, shall:

Rule 10.1 Regulations. – Issue within one (1) year from the effectivity of this IRR, the appropriate FAO to implement this Section.

SEC. 11. Protection of Rare, Threatened and Endangered Species. - The Department shall declare closed seasons and take conservation and rehabilitation measures for rare, threatened and endangered species, as it may determine, and shall ban the fishing and/or taking of rare, threatened and/or endangered species, including their eggs/offspring as identified by existing laws in concurrence with concerned government agencies.

The Department, through BFAR, shall:

Rule 11.1 Inventory. – Conduct an inventory of rare, endangered and threatened aquatic species starting from the effectivity of this IRR, and thereafter, monitor and keep an updated list of such species;

Rule 11.2 Regulations. – Issue the appropriate FAO declaring closed seasons and management measures to protect rare, threatened and endangered species.

SEC. 12. Environmental Impact Statement (EIS). - All government agencies as well as private corporations, firms and entities who intend to undertake activities or projects which will affect the quality of the environment shall be required to prepare a detailed Environmental Impact Statement (EIS) prior to undertaking such development activity. The preparation of the EIS shall form an integral part of the entire planning process pursuant to the provisions of Presidential Decree No. 1586 as well as its implementing rules and regulations.

Rule 12.1 Establishment of Environmental Unit in BFAR. – The Department shall establish an Environmental Unit in BFAR to coordinate with concerned agencies in assisting project proponents in preparing Environmental Impact Statement prior to its submission to DENR.

SEC. 13. Environmental Compliance Certificate (ECC). - All Environmental Impact Statements (EIS) shall be submitted to the Department of Environment and Natural Resources (DENR) for review and evaluation. No persons, natural or juridical, shall undertake any development project without first securing an Environmental Compliance Certificate (ECC) from the Secretary of the DENR.

SEC. 14. Monitoring, Control and Surveillance of Philippine Waters. - A monitoring, control and surveillance system shall be established by the Department in coordination with LGUs, FARMCs, the private sector and other agencies concerned to ensure that the fisheries and aquatic resources in Philippine waters are judiciously and wisely utilized and managed on a sustainable basis and conserved for the benefit and enjoyment exclusively of Filipino citizens.

The Department, through BFAR, shall:

Rule 14.1 Establish a Monitoring, Control and Surveillance (MCS) System at the national and regional levels which shall be comprised of the following:

a.

The Monitoring Component consists of the collection, storage and retrieval of catch and effort data and other relevant information;

b.

The Control Component consists of fishery legislation and ordinances, such as but not limited to licensing, catch ceiling, closed season, fish sanctuaries and other regulations provided in this IRR;

c.

The Surveillance Component consists of fishery law enforcement activities.

Rule 14.1 Establish a Monitoring, Control and Surveillance (MCS) System at the national and regional levels which shall be comprised of the following:

a. The Monitoring Component consists of the collection, storage and retrieval of catch and effort data and other relevant information;

b.

c.

The Control Component consists of fishery legislation and ordinances, such as but not limited to licensing, catch ceiling, closed season, fish sanctuaries and other regulations provided in this IRR;

The Surveillance Component consists of fishery law enforcement activities.

Rule 14.2 Inter-Agency Coordination. – The Cabinet Committee on Marine and Ocean Affairs (CABCOM-MOA) Technical Working Group for MCS shall be the coordinating committee to implement the MCS;

Rule 14.3 Operations Centers. – Establish the National MCS Coordinating and Operations Center (NMCSOC) and Regional MCS Coordinating and Operations Center (RMCSOC) in strategic sites;

Rule 14.4 Establish Municipal MCS System in selected municipalities in coordination with FARMCs, Department of Interior and Local Government (DILG), the private sector and other agencies concerned;

Rule 14.5 Secure budgetary support from the Department of Budget and Management (DBM) for an effective MCS operations.

SEC. 15. Auxiliary Invoices - All fish and fishery products must have an auxiliary invoice to be issued by the LGUs or their duly authorized representatives prior to their transport from their point of origin to their point of destination in the Philippines and/or export purposes upon payment of a fee to be determined by the LGUs to defray administrative costs therefor.

The municipal/city government shall:

Rule 15.1 Restrictions. – Issue auxiliary invoices for the transport of fish and fishery products except those caught in violation of the provisions of this Code or are declared as health hazards as defined in this IRR: Provided, however, that the fish and fishery aquatic product transported

and/or unloaded by Philippine Registered fishing vessels and culture pearls are exempted from the issuance of auxiliary invoice;

Rule 15.2 Reports. – Make available to the Provincial Fishery Office (PFO) the monthly summary of auxiliary invoices.

ARTICLE I

MUNICIPAL FISHERIES

SEC . 16. Jurisdiction of Municipal/City Governments. - The municipal/city government shall have jurisdiction over municipal waters as defined in this Code. The municipal/city government, in consultation with the FARMC shall be responsible for the management, conservation, development, protection, utilization, and disposition of all fish and fishery/aquatic resources within their respective municipal waters.

The municipal/city government may, in consultation with the FARMC, enact appropriate ordinances for this purpose and in accordance with the National Fisheries Policy. The ordinances enacted by the municipality and component city shall be reviewed pursuant to Republic Act No. 7160 by the sanggunian of the province which has jurisdiction over the same.

The LGUs shall also enforce all fishery laws, rules and regulations as well as valid fishery ordinances enacted by the municipality/city council.

The management of contiguous fishery resources such as bays which straddle several municipalities, cities or provinces, shall be done in an integrated manner, and shall not be based on political subdivisions of municipal waters in order to facilitate their management as single resource systems. The LGUs which share or border such resources may group themselves and coordinate with each other to achieve the objectives of integrated fishery resource management. The Integrated Fisheries and Aquatic Resources Management Councils (IFARMCs) established under Section 76 of this Code shall serve as the venues for close collaboration among LGUs in the management of contiguous resources.

The municipal/city government shall:

Rule 16.1 Basic Municipal Fisheries Ordinance. – Shall enact a basic Municipal Fisheries Ordinance (MFO) delineating the boundaries of the municipal waters as defined in this Code and providing the rules and regulations on licensing and permits and other fisheries activities: Provided, however, that for municipalities whose waters are adjacent or contiguous to international borders, the delineation of boundaries of municipal waters shall be done after due consultation with the DFA and other concerned agencies;

Rule 16.2 License Fees. – Shall determine, in consultation with the FARMCs, the license fees of fisheries activities in municipal waters: Provided, that the FARMC may also recommend the appropriate license fees that will be imposed;

Rule 16.3 Special Municipal Fisheries Ordinances. – Shall enact, in consultation with BFAR, Special Fisheries Ordinances, such as but not limited to declaring special demarcated fisheries areas, closed season and environmentally critical areas and sanctuaries;

Rule 16.4 Consultation with the FARMCs. – Shall consult the FARMCs in the enactment of municipal fisheries ordinances;

Rule 16.5 Modified Ordinance. – Shall modify or amend existing municipal fisheries ordinances to conform with Republic Act No. 8550;

Rule 16.6 Overlapping Boundaries. – May seek the assistance of the Department through BFAR, in resolving overlapping boundaries of municipal waters;

Rule 16.7 Unified Fisheries Ordinance. – May formulate with other LGUs having jurisdiction over municipalities bordering bays, lakes and gulfs, a unified municipal fisheries ordinance for an integrated resource management of the same;

Rule 16.8 Color Coding. – Shall design a color coding system for municipal waters, such color code system to include identifiable markings to be carried by the municipal fishing boats;

Rule 16.9 Enforcement. – Shall enforce fishery laws, rules and regulations and fisheries ordinances in municipal waters.

SEC. 17. Grant of Fishing Privileges in Municipal Waters. - The duly registered fisherfolk organizations/cooperatives shall have preference in the grant of fishery rights by the Municipal/City Council pursuant to Section 149 of the Local Government Code: Provided, That in areas where there are special agencies or offices vested with jurisdiction over municipal waters by virtue of special laws creating these agencies such as, but not limited to, the Laguna Lake Development Authority and the Palawan Council for Sustainable Development, said offices and agencies shall continue to grant permits for proper management and implementation of the aforementioned structures.

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.

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 as defined herein, provided, that all the following are met:

- a. no commercial fishing in municipal waters with depth less than seven (7) fathoms as certified by the appropriate agency;
- b. fishing activities utilizing methods and gears that are determined to be consistent with national policies set by the Department;

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.

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.

Rule 18.1 Guidelines. - The municipality/city government which intend to allow the entry of commercial fishing boats in 10.1 to 15 km. from the coastline:

- a. Establish the boundaries of the allowable areas for commercial fishing: The concerned municipality and city government may seek the assistance of the Department and/or National Mapping and Resource Information Authority (NAMRIA) in establishing the boundaries and isobath depth of waters;
- b. Conduct a public hearing in consultation with FARMCs to present the following (1) a map showing the areas of the municipal waters where small and medium commercial fishing vessels may be allowed to operate (2) the type of fishing vessels and gear that may be allowed in such waters (3) the draft municipal fisheries ordinance permitting/allowing such commercial fishing operations;
- c. Enact appropriate municipal fisheries ordinance.

SEC. 19. Registry of Municipal Fisherfolk. - The LGU shall maintain a registry of municipal fisherfolk, who are fishing or may desire to fish in municipal waters for the purpose of determining priorities among them, of limiting entry into the municipal waters, and of monitoring fishing activities and/or other related purposes: Provided, That the FARMC shall submit to the LGU the list of priorities for its consideration.

Such list or registry shall be updated annually or as may be necessary, and shall be posted in barangay halls or other strategic locations where it shall be open to public inspection, for the purpose of validating the correctness and completeness of the list. The LGU, in consultation with the FARMCs, shall formulate the necessary mechanisms for inclusion or exclusion procedures that shall be most beneficial to the resident municipal fisherfolk. The FARMCs may likewise recommend such mechanisms.

The LGUs shall also maintain a registry of municipal fishing vessels by type of gear and other boat particulars with the assistance of the FARMC.

Rule 19.1 Standard Registration Form – The Department, through BFAR, in coordination with NFARMC, shall assist the LGUs in developing a standard registration form for municipal fishing vessels, gears and fisherfolk;

Rule 19.2 Criteria for Registration. – Residency in the municipality/city for at least six (6) months;

Rule 19.3 Use of Registry. – The Registry of Municipal Fisherfolk shall serve as basis for the identification of priority municipal fisherfolk who shall be allowed to fish within the municipal waters but registration is not equivalent to a permit to fish.

SEC. 20. Fisherfolk Organizations and/or Cooperatives. - Fisherfolk organizations/cooperatives whose members are listed in the registry of municipal fisherfolk, may be granted use of demarcated fishery areas to engage in fish capture, mariculture and/or fish farming: Provided, however, That an organization/cooperative member whose household is already in possession of a fishery right other than for fish capture cannot enjoy the fishing rights granted to the organization or cooperative.

SEC. 21. Priority of Resident Municipal Fisherfolk. - Resident municipal Fisherfolk of the municipality concerned and their organizations/cooperatives shall have priority to exploit municipal and demarcated fishery areas of the said municipality.

SEC. 22. Demarcated Fishery Right. - The LGU concerned shall grant demarcated fishery rights to fishery organizations/cooperatives for mariculture operation in specific areas identified by the Department.

Rule 22.1 Identification of Mariculture Areas. – The Department, through BFAR, in cooperation with the LGUs concerned, shall identify municipal waters suitable for mariculture operations and establish the linear boundaries of the area to be declared as demarcated fishery area.

SEC. 23. Limited Entry Into Overfished Areas. Whenever it is determined by the LGUS and the Department that a municipal water is overfished based on available data or information or in

danger of being overfished, and that there is a need to regenerate the fishery resources in that water, the LGU shall prohibit or limit fishery activities in the said waters.

The Department, through BFAR, shall:

Rule 23.1 Guidelines on Overfishing. – Promulgate and issue within six (6) months from the effectivity of this IRR, the criteria for determining overfished areas and issue the appropriate FAO;

Rule 23.2 Declaration of Overfished Areas in Municipal Waters. – Determine jointly with the LGUs and FARMCs concerned, the boundaries of municipal waters or parts thereof, which are overfished or in danger of being overfished or in need of regeneration: Provided, however, that the LGUs shall declare a municipal water or parts thereof as overfished and shall issue the appropriate municipal fisheries ordinance prohibiting or limiting fisheries activities;

Rule 23.3 Impact Assessment. – Undertake an impact assessment of the state of fisheries in the declared overexploited area and accordingly submit its recommendations to the concerned municipalities.

SEC. 24. Support to Municipal Fisherfolk. - The Department and the LGUs shall provide support to municipal fisherfolk through appropriate technology and research, credit, production and marketing assistance and other services such as, but not limited to training for additional/supplementary livelihood.

The Department, through BFAR, in collaboration with other concerned agencies, shall:

Rule 24.1 Technology Transfer. – Transfer technology in aquaculture, post-harvest, fishing and other technologies through training and extension in BFAR's fisheries demonstration farms, National Fisheries Technology Centers, Regional Fishermen Training Centers and Regional Fisheries Outreach Stations;

Rule 24.2 Verification Studies. – Conduct technology verification studies and establish pilot demonstration projects in various aspects of fisheries conservation, management and development;

Rule 24.3 Marketing Assistance. – Provide production, market and credit information for fish and fishery products;

Rule 24.4 Technical Assistance on Feasibility Studies. – Provide technical assistance in the preparation of feasibility studies to facilitate fisherfolk organizations' access to credit;

Rule 24.5 Technical Assistance on Fisheries Management. – Provide technical assistance to LGUs, FARMCs and fisherfolk organizations in establishing fisheries management systems in municipal waters;

Rule 24.6 Organizing/Strengthening of Local Organizations. – Provide assistance in organizing/strengthening fisherfolk organizations and cooperatives in coordination with the Cooperative Development Authority (CDA), Non-Government Organizations (NGOs), People Organizations (POs) and other concerned agencies.

SEC 25. Rights and Privileges of Fishworkers. - The fishworkers shall be entitled to the privileges accorded to other workers under the Labor Code, Social Security System and other benefits under other laws or social legislation for workers: Provided, That fishworker on board ant fishing vessels engaged in fishing operations are hereby covered by the Philippine Labor Code, as amended.

Rule 25.1 Working Hours of Fishworkers. – Fishworkers on board any fishing vessel engaged in fishing operations shall be classified as field personnel as defined under Section 82 of the Philippine Labor Code, as amended, and shall not be subject to the regulations on normal working hours and overtime.

ARTICLE II

COMMERCIAL FISHERIES

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 driver without first securing a license from the Department, the period of which shall be prescribed by the Department: Provided, 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: Provided further, 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: Provided furthermore, 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: Provided finally, 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.

The Department, through BFAR, shall:

Rule 26.1 Vessel and Gear Licenses. – Issue to qualified commercial fishing vessel applicant licenses for fishing vessel and gear for specific or several fishing areas to be used for commercial fishing operation. The license shall be for specific fishing areas provided, however, that the license may be granted for one or several fishing areas;

Rule 26.2 Updated Philippine Marine Water Map. – Organize an Inter-agency Committee to prepare a consolidated map of Philippine waters, delineating municipal water boundaries and depths thereof;

Rule 26.3 Number of Commercial Fishing Vessel Licenses (CFVL). – Issue the corresponding number of CFVL based on MSY as provided in Section 7 of this Code;

Rule 26.4 Skipper's Surveillance Training. – Require skippers to undergo an intensive orientation/training on fishery laws including the detection of fish caught by explosives/obnoxious or poisonous substances and to report sightings of foreign fishing vessels poaching in Philippine waters and other fishery violations.

SEC. 27. Persons Eligible for Commercial Fishing Vessel License. - No commercial fishing vessel license shall be issued except to citizens of the Philippines, partnership or to associations, cooperatives or corporations duly registered in the Philippines at least sixty percent (60%) of the capital stock of which is owned by Filipino citizens. No person to whom a license has been issued shall sell, transfer or assign, directly or indirectly, his stock or interest therein to any person not qualified to hold a license. Any such transfer, sale or assignment shall be null and void and shall not be registered in the books of the association, cooperative or corporation.

For purposes of commercial fishing, fishing vessel owned by citizens of the Philippines, partnerships, corporations, cooperatives or associations qualified under this section shall secure Certificates of Philippine Registry and such other documents as are necessary for fishing operations from the concerned agencies: Provided, That the commercial fishing vessel license shall be valid for a period to be determined by the Department.

SEC. 28. Commercial Fishing Vessel Registration. - The registration, documentation, inspection and manning of the operation of all types of fishing vessels plying Philippine waters shall be in accordance with existing laws, rules and regulations.

SEC 29. Registration and Licensing of Fishing Gears Used in Commercial Fishing. - Before a commercial fishing holding a commercial fishing vessel license may begin fishing operations in Philippine waters, the fishing it will utilize in fishing shall be registered and a license granted therefore. The Department shall promulgate guidelines to implement this provision within sixty (60%) days from approval of this Code.

Rule 29.1 Requirements for Licensing. – The Department, through BFAR, shall issue within three (3) months from the effectivity of this IRR, the appropriate FAO to implement this Section.

SEC. 30. Renewal of Commercial Boats License. - The commercial fishing boat license shall be renewed every three (3) years.

The owner/operator of a fishing vessel has a period of sixty (60) days prior to the expiration of the license within which to renew the same.

SEC. 31. Report of Transfer of Ownership. - The owner/operator of a registered fishing vessel shall notify the Department in writing of the transfer of the ownership of the vessel with a copy of such document within ten (10) days after its transfer to another person.

SEC. 32. Fishing by Philippine Commercial Fishing Fleet in International Waters. - Fishing vessels of Philippine registry may operate in international water or waters of other countries which allow such fishing operation: 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 an international fishing permit and certificate of clearance 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 fishing vessels conducting fishing activities beyond the Philippine Exclusive Zone are not considered as overseas Filipino workers.

The Department, through BFAR, shall:

Rule 32.1 Registration of Landing Ports. – Require landing ports established by canneries, seafood processors, and private fish landing sites established prior to the effectivity of this Code to register with BFAR to qualify as authorized landing sites for fish caught in international waters by Philippine commercial fleet;

Rule 32.2 Workers Classification – Fishermen on board Philippine registered fishing vessels fishing beyond the Exclusive Economic Zone are not considered as overseas Filipino workers, and therefor, are not covered by the Migrant Workers and Overseas Filipino Act of 1995 and its implementing rules and regulations.

Rule 32.3 Exception from Applicable Immigration and Customs Regulations. – Philippine registered fishing vessels engaged in fishing operations in Philippine 200 miles Exclusive Economic Zone and beyond shall be exempted from applicable immigration and customs laws and its implementing rules.

SEC. 33. Importation of Fishing Vessels or Construction of New Fishing Boats. - Prior to the importation of fishing vessels and the construction of new fishing vessels, the approval/clearance of the Department must first be obtained.

The Department, through BFAR, shall:

Rule 33.1 Importation. – Issue, within one (1) year from the effectivity of this IRR, the appropriate FAO on the maximum age and minimum gross tonnage for catcher vessels that may be imported.

SEC. 34. Incentives for Municipal and Small Scale Commercial Fisherfolk. - Municipal and small scale commercial fisherfolk shall be granted incentives which shall include, but are not limited to the following:

a.

at least ten percent (10%) of the credit and the guarantee funds of government financing institutions shall be made available for post harvest and marketing projects for the purpose of enhancing our fisherfolk competitiveness by reducing post-harvest losses. Qualified projects shall include, but shall not be limited to, ice plants, cold storage, canning, warehouse, transport and other related infrastructure projects and facilities, and

b.

the Department shall undertake the following programs:

1.

a capability building program for targeted parties shall be developed by the Department to promote greater bankability and worthiness of municipal and small scale commercial fishers. Such program shall include organizing activities, technology transfer, and skills training related to commercial fishing as well as credit management. Groups and cooperatives organized under the program shall have priority access over credit and guarantee funds established under this Code; and

2.

an information campaign shall be conducted to promote the capability-building and credit programs. The campaign shall ensure greater information dissemination and accessibility to targeted fisherfolk.

Rule 34.1 Inter-Agency Credit Committee. – The Department, shall within three (3) months from the effectivity of this IRR, form an Inter-Agency Committee composed of representatives from Agricultural Credit and Policy Council (ACPC), BFAR, National Credit Council (NCC), Department of Finance (DOF), Small and Medium Business Enterprise Guarantee Fund

(SMBEGF), Guarantee Fund for Small and Medium Scale Enterprise (GFSME), Land Bank of the Philippines (LBP), Development Bank of the Philippines (DBP), Quedan and Rural Credit Guarantee Corporation (QUEDANCOR), Guarantee Fund for Small and Medium Scale Enterprises (GFSME) who shall formulate through a participatory process with the beneficiaries the credit guidelines to implement Section 34;

Rule 34.2 The Department, through BFAR, shall develop and implement capability building for municipal and small scale commercial fishers which shall include those covered by the rules under Section 24.

SEC. 35. Incentives for Commercial Fishers to Fish Further into the Exclusive Economic Zone (EEZ). - In order to encourage fishing vessel operators to fish farther in the EEZ and beyond, new incentives for improvement of fishing vessels and acquisition of fishing equipment shall be granted in addition to incentives already available from the Board of Investments (BOI). Such incentives shall be granted subject to exhaustive evaluation of resource and exploitation conditions in the specified areas of fishing operations. The incentive shall include, but not be limited to:

a.

long term loans supported by guarantee facilities to finance the building and acquisition and/or improvement of fishing vessels and equipment;

b.

commercial fishing vessel operators of Philippine registry shall enjoy a limited period of tax and duty exemptions on the importation of fishing vessels not more than five (5) years old, equipment and paraphernalia, the period of exemption and guidelines shall be fixed by the Department within ninety (90) days from effectivity of this Code.

c.

commercial fishing operator of Philippine registry engaged in fisheries in the high seas shall be entitled to duty and tax rebates on fuel consumption for commercial fisheries operations. Guidelines shall be promulgated within ninety (90) days from the effectivity of this Code by the Department; and

d.

all applicable incentives available under the Omnibus Investment Code of 1987: Provided, That the fishing operation project is qualified for registration and is duly registered with the BOI.

Rule 35.1 The Department, through BFAR, shall create within one (1) month from the effectivity of this IRR, an Inter-Agency/Sectoral Committee which includes the private sector to formulate guidelines to implement Section 35.

SEC. 36. Complement of Fishing Vessels. - Every commercial fishing vessel of Philippine registry when actually operated, shall be manned in accordance with the requirements of the Philippine Merchant Marine rules and regulations.

SEC. 37. Medical Supplies and Life-Saving Devices. - All fishing vessels shall be provided with adequate medical supplies and life-saving devices to be determined by the Occupational Safety and Health Center: Provided, That a fishing vessel of twenty (20) GT or more shall have as a member of its crew a person qualified as a first aider duly certified by the Philippine National Red Cross.

SEC. 38. Reportorial Requirements. - Each commercial fishing vessel shall keep a daily record of fish catch and spoilage, 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 monthly to the officer or representative of the Department, at the nearest designated landing point.

Rule 38.1 Reports. – Each commercial fishing vessel shall provide the Department, through BFAR, the following reports duly certified by the vessel's Captain and transmitted monthly using prescribed logsheet form: (i) a record of daily fish catch by fishing trip and fishing area, such fishing area defined by specific measurement of latitude and longitude positions; (ii) daily record of quantity and value of fish catch, spoilage, landing points, transshipment and/or other means of disposal.

SEC. 39. Report of Meteorological and Other Data. - All vessels and crafts passing navigational lanes or engaged in fisheries activity shall be required to contribute to meteorological and other data, and shall assist the Department in documentation or reporting of information vital to navigation and the fishing industry.

SEC. 40. Color Code and Radio Frequency. - For administrative efficiency and enforcement of regulations, registered fishing vessels shall bear a color code as may be determined by the Department and may be assigned a radio frequency specific and distinct to its area of operation.

The Department through BFAR, shall:

Rule 40.1 Implementation of Color Code Licensing System. – Require that the licensing of commercial fishing vessels will be for specific or several fishing areas;

Rule 40.2 Demarcation of Fishing Areas. – Demarcate the Philippine waters into distinct fishing areas, in coordination with NAMRIA, produce a map of the Philippine waters, each fishing area being designated with a code number;

Rule 40.3 Color Coding System. – Design color coding system for fishing areas for commercial fishing vessels;

Rule 40.4 Regulation. – Issue the appropriate FAO for such color code licensing system within two (2) years from the effectivity of this IRR;

Rule 40.5 Assignment of Radio Frequency. – Coordinate with the National Telecommunication Commission (NTC) on the assignment of radio frequencies for the area of operation of the fishing vessels.

SEC. 41. Passage. - Commercial and other passage not in the regular conduct of fisheries activity shall be made at designated navigational lanes.

SEC. 42. Transshipment. - Foreign fishing vessels wishing to avail of land, air and sea facilities available in the Philippines to transport fishery products which are caught outside Philippine territorial waters to its final destination shall call only at duly designated government-owned or controlled regional fishport complexes after securing clearance from the Department.

The Department through BFAR, shall:

Rule 42.1 Guidelines. – Formulate, in cooperation with PFDA, guidelines on transshipment;

Rule 42.2 Transshipment Points. – Designate, in cooperation with PFDA, the regional fishport complexes as authorized transshipment points;

SEC. 43. Operation of Radio Communication Facilities on Board Fishing Vessels. - The Department shall promulgate guidelines in the operation of radio communication facilities on board fishing vessels and the assignment of radio frequencies specific and distinct to area of operation in coordination with the National Telecommunications Commission.

Rule 43.1 Regulation. – The Department, through BFAR, in cooperation with NTC, shall issue, within one (1) year from the effectivity of this IRR, the appropriate FAO on the qualifications of the Fishing Vessel Radio Operators.

SEC. 44. Use of Superlight. - The number and wattage of superlights used in commercial fishing vessels shall be regulated by the Department: Provided, That the use of superlights is banned within municipal waters and bays.

The Department through BFAR, shall:

Rule 44.1 Regulations. – Conduct studies to determine superlights to be regulated and issue corresponding FAO, within one (1) year from the effectivity of this IRR on the total wattage and lumens which shall be allowed according to tonnage size of a commercial fishing vessel.

ARTICLE III

AQUACULTURE

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: 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.

The Department through BFAR, shall:

Rule 45.1 Declaration of Reserved Areas.– Determine, in coordination with DENR, within six (6) months from the effectivity of this IRR, areas or portions of available public lands certified as suitable for fishpond purposes to be declared as reservation, fish sanctuary or for conservation, and ecological purposes;

Rule 45.2 Preference in the Issuance of New FLAs – Give preference to qualified fisherfolk cooperatives/associations in the issuance of new FLAs covering public lands declared available for fishpond development;

Rule 45.3 Preference in the issuance of Expired FLAs. – Give preference primarily to qualified fisherfolk cooperatives/associations as well as small and medium enterprise in the awarding of expired FLAs;

Rule 45.4 Regulation. – Issue the FAO, within one (1) year from the effectivity of this IRR on the criteria for the selection of qualified applicants for new and expired FLAs.

SEC. 46. Lease of Fishponds. - Fishpond leased to qualified persons and fisherfolk organizations/cooperatives shall be subject to the following conditions:

a.

Areas leased for fishpond purposes shall be no more than 50 hectares for individuals and 250 hectares for corporations or fisherfolk organizations;

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;

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;

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;

e.

The fishpond shall not be subleased, in whole or in part, and failure to comply with this provision shall mean cancellation of FLA;

f.

The transfer or assignment of rights to FLA shall be allowed only upon prior written approval of the Department;

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

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.

The Department through BFAR, shall:

Rule 46.1 Lease Rate. – Issue the FAO, within one (1) year from the effectivity of this IRR, the guidelines prescribing fishpond lease rates and other regulations to implement this Section;

Rule 46.2 Reforestation. – In coordination with the DENR, issue the guidelines within one (1) year from the effectivity of this IRR, on the reforestation of river banks, bays, streams and seashores fronting the dike of the fishpond area covered by the FLA.

SEC. 47. Code of Practice for Aquaculture. - The Department shall establish a code of practice for aquaculture that will outline general principles and guidelines for environmentally-sound design and operation to promote the sustainable development of the industry. 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.

Rule 47.1 Drafting of the Code of Practice for Aquaculture. – The Department through BFAR, shall work closely with DENR, Southeast Asian Fisheries Development Center/Aquaculture Department (SEAFDEC/AQD), International Center for Living and Aquatic Resources Management (ICLARM), other concerned agencies, private sector and FARMCs in drafting the Code of Practice for Aquaculture, to be completed within one (1) year from the effectivity of this IRR, in consonance with the Code of Conduct for Responsible Fisheries

SEC. 48. Incentives and Disincentives for Sustainable Aquaculture Practices. - 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.

Rule 48.1 Incentive/Disincentive System. – The Department, through BFAR, shall establish, in coordination with the DENR, within one (1) year from the effectivity of this IRR, disincentive system including but not limited to fines and penalties for pollutants and effluents traceable to the government leased and privately owned fishponds and incentives or awards for compliance with environmental regulation.

SEC. 49. Reversion of All Abandoned, Undeveloped or Underutilized Fishponds. - The DENR, in coordination with the Department , LGUs, other concerned agencies and FARMCs shall determine which abandoned, undeveloped or underutilized fishponds covered by FLAs can be reverted to their original mangrove state and after having made such determination shall take all steps necessary to restore such areas in their original mangrove state.

Rule 49.1 Joint Guidelines. – The Department, through BFAR and the DENR, shall be guided in the implementation of this Section by the Joint DA-DENR General Memorandum Order No. 3, Series of 1991, which shall be reviewed and revised accordingly within six (6) months from the effectivity of this IRR;

Rule 49.2 Identification of Abandoned, Undeveloped, Underutilized Fishponds. - The Department, through BFAR, shall establish, in coordination with the DENR, within one (1) year from the effectivity of this IRR, review and update fishpond surveys and identify abandoned, undeveloped or underutilized fishpond which, after due process, can be given to qualified persons or reverted to forest lands.

SEC. 50. Absentee Fishpond Lease Agreement Holders. - Holders of fishpond lease agreements who have acquired citizenship in another country during the existence of the FLA shall have their lease automatically cancelled and the improvements thereon to be forfeited in favor of the government and disposed of in accordance with rules and regulations promulgated thereon.

Rule 50.1 Proof of Citizenship. - The Department, through BFAR, shall through the appropriate FAO, require all fishpond lease holders to submit proof of citizenship.

SEC. 51. License to Operate Fish Pens, Fish Cages, Fish Traps and Other Structures for the Culture of Fish and Other Fishery Products. - Fish pens, fish cages, fish traps and other structures for the culture of fish and other fishery products shall be constructed and shall operate only within established zones duly designated by LGUs in consultation with the FARMCs concerned consistent with national fisheries policies after the corresponding licenses thereof have been secured. The area to be utilized for this purpose for individual person shall be determined by the LGUs in consultation with the concerned FARMC: Provided, however, That not over ten percent (10%) of the suitable water surface area of all lakes and rivers shall be allotted for aquaculture purposes like fish pens, fish cages and fish traps; and the stocking density and feeding requirement which shall be controlled and determined by its carrying capacity: Provided further, That fish pens and fish cages located outside municipal waters shall be constructed and operated only within fish pen and fish cage belts designated by the Department and after corresponding licenses therefore have been secured and the fees thereof paid.

Rule 51.1 Carrying Capacity of Lakes. – The Department, through BFAR, in coordination with relevant research centers, shall determine within one (1) year from the effectivity of this IRR, the carrying capacity of lakes and inland waters, such information to provide the LGUs with information on suitable water surface area for aquaculture purposes.

SEC. 52. Pearl Farm Leases. - The foregoing provisions notwithstanding, existing pearl farm leases shall be respected and allowed to operate under the terms thereof. New leases may be granted to qualified persons who possess the necessary capital and technology, by the LGUs having jurisdiction over the area.

Rule 52.1 Inventory. – The Department through BFAR, shall conduct an inventory of all existing pearl farms;

Rule 52.2 Regulation. – The Department through BFAR, shall prepare a model municipal fisheries ordinance which the LGUs may adopt as basis for their issuance of permits for the operation of pearl farms.

SEC. 53. Grant of Privileges for Operations of Fish Pens, Cages, Corrals/Traps and Similar Structures. - No new concessions, licenses, permits, leases and similar privileges for the establishment or operation of fish pens, fish cages, fish corrals/traps and other similar structures in municipal areas shall be granted except to municipal fisherfolk and their organizations.

SEC. 54. Insurance for Fishponds, Fish Cages, and Fish Pens, Inland fishponds, fish cages and fish pens shall be covered under the insurance program of the Philippine Crop Insurance Corporation for losses caused by force majeure and fortuitous events.

Rule 54.1 Guidelines. – The Department through BFAR, shall coordinate with the Philippine Crop Insurance Corporation (PCIC) on the formulation of the guidelines to implement this Section;

Rule 54.2 Coverage. – The PCIC shall include fishpens, fish cages, seaweed farms and other aquaculture projects and non-agricultural assets such as ice plants, cold storage and other post harvest facilities as eligible for insurance coverage.

SEC. 55. Non-Obstruction to Navigation. - Nothing in the foregoing sections shall be construed as permitting the lessee, licensee, or permittee to undertake any construction which will obstruct the free navigation in any stream, river, lakes or bays flowing through or adjoining the fish pens, fish cages, fish traps, and fishponds, or impede the flow of the tide to and from the area. Any construction made in violation hereof shall be removed upon the order of the Department in coordination with the other government agencies concerned at the expense of the lessee, or occupants thereof, whenever applicable. The Department shall within thirty (30) days after the effectivity of this Code formulate and implement rules and regulations for the immediate dismantling of existing obstruction to navigation.

Rule 55.1 Regulation. – The Department through BFAR, in consultation with LGUs and/or other agencies and FARMCs concerned, shall issue within one (1) year from the effectivity of this IRR, appropriate FAO to implement this Section.

SEC. 56. Non-Obstruction to Defined Migration Paths. - Nothing in the foregoing sections shall be construed as permitting the lessee, permittee, or licensee to undertake any construction which will obstruct any defined migration path of migratory fish species such as river mouths and estuaries within a distance determined by the concerned LGUs in consultation with and upon the recommendation of the FARMCs.

Rule 56.1 Regulation. – The Department through BFAR, in consultation with FARMCs shall issue within one (1) year from the effectivity of this IRR, the appropriate FAO to implement this Section.

SEC. 57. Registration of Fish Hatcheries and Private Fishponds, etc. - All fish hatcheries, 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 operators shall annually report to the Department the type of species and volume of production in areas devoted to aquaculture.

Rule 57.1 Regulation. – The Department through BFAR, shall issue the appropriate FAO within one (1) year from the effectivity of this IRR, to implement this Section.

ARTICLE IV

POST-HARVEST FACILITIES, ACTIVITIES AND TRADES

SEC. 58. Comprehensive Post-harvest and Ancillary Industries Plan. - The Department shall conduct a regular study of fisheries post-harvest operations and ancillary industries, in the formulation of a comprehensive plan for post-harvest and ancillary industries. It shall take into account, among others, the following:

- a. detailed and clear guidelines on the distribution, construction, maintenance and use of post-harvest infrastructure facilities;
- b. extension of credit and incentives for post-harvest operations;
- c. promotion and strengthening of semi-processing, processing and handling;
- d. development of domestic fishmeal industry;
- e. development of fisheries ship-building and repair as a viable industry;
- f.

development and strengthening of marketing facilities and activities, including the pricing system, with emphasis on collective marketing and the elimination of middlemen;

g.

increased participation of cooperatives and non-governmental organizations in post-harvest operations and ancillary industries;

h.

integration of fisheries post-harvest operations into the national fisheries plan.

Rule 58.1 Plan. – The Department through BFAR and PFDA and in consultation with other concerned agencies and the private sector, shall within two (2) years from the effectivity of this IRR, prepare and complete of this IRR, prepare and complete the Comprehensive Post Harvest and Ancillary Industries Plan.

SEC. 59. Establishment of Post-Harvest Facilities for Fishing Communities. - The LGUs shall coordinate with the private sector and other concerned agencies and FARMCs in the establishment of post-harvest facilities for fishing landing sites, fish ports, ice plants and cold storage and other fish processing establishments to serve primarily the needs of municipal fisherfolk: Provided, That such post-harvest facilities shall be consistent with the Comprehensive Post-harvest and Ancillary Industries Plan.

Rule 59.1 Guidelines. – The Department through BFAR, shall prepare within six (6) months from the effectivity of this IRR, the guidelines to implement this Section.

SEC. 60. Registration and Licensing of all Post-Harvest Facilities. - All post-harvest facilities such as fish processing plants, ice plants, and cold storages, fish ports/landings and other fishery business establishments must register with and be licensed by the LGUs which shall prescribe minimum standards for such facilities in consultation with the Department.

Rule 60.1 Standards. – The Department through BFAR and PFDA, shall establish the minimum operating standards for post harvest facilities in accordance with Hazard Analysis Critical Control Points (HACCP);

Rule 60.2 Guidelines. – The Department through BFAR, shall coordinate with LGUs in the implementation of these standards in licensing and registration of fish processing plants, ice plants and cold storages, fish ports/landings and other fishery business establishments.

SEC. 61. Importation and Exportation of Fishery Products. -

a.

Export of fishery products shall be regulated whenever such exportation affects domestic food security and production: Provided, that the exportation of live fish shall be prohibited except those which are hatched or propagated in accredited hatcheries and ponds.

b.

To protect and maintain the local biodiversity or ensure the sufficiency of domestic supply, spawners, breeders, eggs and fry of bangus, prawn and other endemic species, as may be determined by the Department, shall not be exported or caused to be exported by any person;

c.

Fishery products may be imported only when the importation has been certified as necessary by the Department, in consultation with the FARMC, and all the requirements of this Code, as well as all existing rules and regulations have been complied with: Provided, That fish imports for canning/processing purposes only may be allowed without the necessary certification, but within the provisions of Section 61 (d) of this Code; and

d.

No person, shall import and/or export fishery products of whatever size, stage or form for any purpose without securing a permit from the Department.

The Department in consultation with the FARMC shall promulgate rules and regulations on importation and exportation of fish and fishery/aquatic resources with the Government's export/import simplification procedures.

The Department through BFAR, shall:

Rule 61.1 Regulations on Importation and Exportation – Issue within three (3) months from the effectivity of this IRR, the appropriate FAO on the guidelines on exportation and importation of fish and fishery products;

Rule 61.2 Regulations on Exportation of Spawners, Breeders, Eggs and Fry. – Issue within three (3) months from the effectivity of this IRR, the appropriate FAO on the exportation of certain spawners, breeders, eggs, fry of bangus, prawn and other endemic species.

SEC. 62. Instruments of Weights and Measures, and Quality Grades/Standards. - Standards for weights, volume and other measurements for all fishery transactions shall be set by the Department.

All fish and fishery products for export, import and domestic consumption shall meet the quality grades/standards as determined by the Department.

The LGU concerned shall, by appropriate ordinance, penalize fraudulent practices and unlawful possession or use of instrument of weights and measures.

Rule 62.1 Standards. – The Department through BFAR, in coordination with other concerned agencies, shall establish, within two (2) years from the implementation of this IRR, quality grades and standards for fishery products in consonance with international standards.

CHAPTER III

RECONSTITUTION OF THE BUREAU OF FISHERIES AND AQUATIC RESOURCES AND CREATION OF FISHERIES AND AQUATIC RESOURCES MANAGEMENT COUNCILS

ARTICLE I

RECONSTITUTION OF THE BUREAU OF FISHERIES AND AQUATIC RESOURCES

SEC. 63. Creation of the Position of Undersecretary for Fisheries and Aquatic Resources. - There is hereby created in the Department of Agriculture the position of Undersecretary for Fisheries and Aquatic Resources, solely for the purpose of attending to the needs of the fishing industry, to be appointed by the President. Such Undersecretary shall have the following functions :

a.

set policies and formulate standards for the effective, efficient and economical operations of the fishing industry in accordance with the programs of the government;

b.

exercise overall supervision over all functions and activities of all offices and instruments and other offices related to fisheries including its officers;

c.

establish , with the assistance of the director, such regional, provincial and other fishery offices as may be necessary and appropriate and organize the internal structure of BFAR in such manner as is necessary for the efficient and effective attainment of its objectives and purposes; and

d.

perform such other functions as maybe necessary or proper to attain the objectives of this Code.

Rule 63.1 Undersecretary for Fisheries and Aquatic Resources. – The position of the Undersecretary for Fisheries and Aquatic Resources in the Department is hereby created solely for the purpose of attending to the needs of the fishing industry.

SEC. 64. Reconstitution of the BFAR. - The Bureau of Fisheries and Aquatic Resources (BFAR) is hereby reconstituted as a line bureau under the Department of Agriculture.

Rule 64.1 Reconstitution of the Bureau. – The BFAR is hereby reconstituted as a line bureau under the Department. Its organizational structure shall consist of a head office, regional fisheries offices, provincial fisheries offices and where and when necessary municipal fisheries offices.

SEC. 65. Functions of the Bureau of Fisheries and Aquatic Resources. - As a line bureau, the BFAR shall have the following functions;

a.

prepare and implement a Comprehensive National Fisheries Industry Development Plan;

b.

issue licenses for the operation of commercial fishing vessels;

c.

issue identification cards free of charge to fishworkers engaged in commercial fishing;

d.

monitor and review joint fishing agreements between Filipino citizens and foreigners who conduct fishing activities in international waters, and ensure that such agreements are not contrary to Philippine commitment under international treaties and convention on fishing in the high seas;

e.

formulate and implement a Comprehensive Fishery Research and Development Program, such as, but not limited to, seafarming, sea ranching, tropical/ornamental fish and seaweed culture, aimed at increasing resource productivity, improving resource use efficiency, and ensuring the long-term sustainability of the country's fishery and aquatic resources;

f.

establish and maintain a Comprehensive Fishery Information System;

g.

provide extensive development support services in all aspect of fisheries production, processing and marketing;

h.

provide advisory services and technical assistance on the improvement of quality of fish from the time it is caught (i.e. on board fishing vessel, at landing areas, fish markets, to the processing plants and to the distribution and marketing chain);

i.

coordinate efforts relating to fishery production undertaken by the primary fishery producers, LGUs, FARMCs, and fishery organizations/cooperatives;

j.

advise and coordinate with LGUs on the maintenance of proper sanitation and hygienic practices in fish markets and fish landing areas;

k.

establish a corps of specialists in collaboration with the Department of National Defense, Department of Interior and Local Government, Department of Foreign Affairs for the efficient monitoring, control and surveillance of fishing activities within Philippine territorial waters and provide the necessary facilities, equipment and training therefor;

l.

implement an inspection system for import and export of fishery/aquatic products and fish processing establishments consistent with international standards to ensure product quality and safety;

m.

coordinate with LGUs and other concerned agencies for the establishment of productivity enhancing and market development programs in fishing communities to enable women to engage in other fisheries/economics activities and contribute significantly to development efforts;

n.

enforce all laws, formulate and enforce all rules and regulations governing the conservation and management of fishery resources, except in municipal waters, and to settle conflicts of resource use and allocation in consultation with the NFARMC, LGUs and local FARMCs;

o.

develop value-added fishery-products for domestic consumption and export;

p.

recommend measures for the protection/enhancement of the fishery industries;

q.

assist the LGUs in developing their technical capability in the development, management, regulation, conservation and protection of the fishery resources;

r.

formulate rules and regulations for the conservation and management of straddling fish stocks and highly migratory fish stocks; and

s.

perform such other related functions which shall promote the development, conservation, management, protection and utilization of fisheries and aquatic resources.

SEC. 66. Composition of BFAR. - As a line bureau, the BFAR shall be headed by a Director and assisted by two (2) Assistant Directors who shall supervise the administrative and technical services of the bureau respectively. It shall establish regional, provincial and municipal offices as may be appropriate and necessary to carry out effectively and efficiently the provisions of this Code.

Rule 66.1 Composition of BFAR. – The BFAR, in consultation/coordination with other agencies and private sectors, within three (3) months from the effectivity of this IRR, shall establish the appropriate organizational structure to carry out its functions as mandated in this Code, and to provide services including but not limited to investment financing, information, regulation, fisheries management, fish production, post harvest and market development, training and extension, policy and planning, international relations;

Rule 66.2 Organizational Structure. – The BFAR shall be headed by a Director and assisted by an Assistant Director for Administrative Services and an Assistant Director for Technical Services. BFAR shall have the following divisions: Legal Division, Administrative Division, Finance Division, Fisheries Resources Management Division, Fisheries Policy and Economics Division, Fisheries Resources Evaluation and Environment Services Division, Fisheries Regulatory and Quarantine Division, Fishing Technology Division, Fisheries Post Harvest Technology Division, Inland Fisheries and Aquaculture Division and Fisheries Industry Development Support Division. The

BFAR shall also have fisheries technology centers, such as but not limited to: National Brackishwater Fisheries Technology Center, National Freshwater Fisheries Technology Center, National Inland Fisheries Technology Center, National Marine Fisheries Development Center, National Integrated Fisheries Technology and Development Center, National Seaweeds Technology and Development Center, Fisheries Biological Center and Mindanao Freshwater Fisheries Technology Center;

Rule 66.3 Regional Fisheries Office. – BFAR shall establish Regional Fisheries Office (RFO) in each administrative region which shall be headed by a Fisheries Regional Director and an Assistant Fisheries Regional Director. The RFO shall have functions such as but not limited to extension and training, regulations and monitoring, control and surveillance;

Rule 66.4 Provincial and Municipal Fisheries Office. – BFAR shall establish provincial offices and municipal offices, as may be appropriate and necessary;

Rule 66.5 Transfer of Assets. – The DA Secretary shall issue an Administrative Order specifying those assets, resources and personnel which shall form the interim Regional Fisheries Offices to take effect not later than July 1, 1998;

Rule 66.6 Assistant Regional Director. – The Assistant Regional Director for Fisheries holding the position of Director III shall automatically be appointed as the Regional Fisheries Office Director;

Rule 66.7 Regional Fishermen Training Center. – The DA Secretary shall transfer to BFAR all Regional Fishermen Training Center.

SEC. 67. Fisheries Inspection and Quarantine Service. - For purposes of monitoring and regulating the importation and exportation of fish and fishery/aquatic resources , the Fisheries Inspection and Quarantine Service in the BFAR is hereby strengthened and shall have the following functions:

a.

conduct fisheries quarantine and quality inspection of all fish and fishery/aquatic products coming into and going out of the country by air or water transport, to detect the presence of fish pest and diseases and if found to harbor fish pests or diseases shall be confiscated and disposed of in accordance with environmental standards and practices;

b.

implement international agreements/commitments on bio-safety and bio-diversity as well as prevent the movement or trade of endemic fishery and aquatic resources to ensure that the same are not taken out of the country;

c.

quarantine such aquatic animals and other fishery products determined or suspected to be with fishery pests and diseases and prevent the movement or trade from and/or into the country of these products so prohibited or regulated under existing laws, rules and regulations as well as international agreements of which the Philippines is a State Party;

d.

examine all fish and fishery products coming into or going out of the country which may be a source or medium of fish pests or diseases and/or regulated by existing fishery regulations and ensure that the quality of fish import and export meet international standards; and

e.

document and authorize the movement or trade of fish and fishery products when found free of fish pests or diseases and collect necessary fees prescribed by law and regulations.

The Department, through BFAR, in coordination with concerned agencies and private sector, shall:

Rule 67.1 Safety and Quality Standards. – Establish and enforce safety and quality standards on aquatic organisms and fishery products for domestic consumption and international trade, consistent with the international trade agreements such as but not limited to: World Trade Organization-General Agreement on Tariff and Trade (WTO-GATT), Sanitary and Phyto-Sanitary (SPS) measures, World Health Organization (WHO) and Food and Agriculture Organization (FAO) Codex Alimentarius Commission;

Rule 67.2 Laboratories. – Establish fisheries laboratories for surveillance, inspection and fish disease diagnosis during handling, transport, manufacturing and storage including but not limited to processing facilities, fish port and landing areas and markets;

Rule 67.3 Fish Inspection. – Establish and implement a HACCP-based fish inspection to include export and import certification system in accordance with established international standards and requirement;

Rule 67.4 Laboratory Fees. – Issue, within three (3) months from the effectivity of this IRR, the appropriate FAO on the collection of charges and fees for laboratory examination of fish and fishery products;

Rule 67.5 Transport and Movement of Living Aquatic Organisms. – Formulate and implement guidelines for the transport and movement of living aquatic organisms consistent with the National Aquatic Animal Health Code and international agreements with Office International des Epizootics (OIE), International Council for Exploration of the Sea (ICES) and European Inland Fisheries Advisory Commission (EIFAC);

Rule 67.6 Quarantine and Inspection. – Establish a Quarantine and Inspection Unit in international and domestic airports and seaports to implement fishery laws, rules and regulations on the transport, movement and trade of fish and fishery products.

ARTICLE II

THE FISHERIES AND AQUATIC RESOURCES MANAGEMENT COUNCILS (FARMCs)

SEC. 68. Development of Fisheries and Aquatic Resources in Municipal Waters and Bays. - Fisherfolk and their organizations residing within the geographical jurisdiction of the barangays, municipalities or cities with the concerned LGUs shall develop the fishery/aquatic resources in municipal waters and bays.

SEC. 69. Creation of Fisheries and Aquatic Resources Management Councils (FARMCs). - FARMCs shall be established in the national level and in all municipalities/cities abutting municipal waters as defined by this code. The FARMCs shall be formed by fisherfolk organizations/cooperatives and NGOs in the locality and be assisted by the LGUs and other government entities. Before organizing FARMCs, the LGUs, NGOs, fisherfolk, and other concerned POs shall undergo consultation and orientation on the formation of FARMCs.

Rule 69.1 Creation of FARMCs. – The Secretary shall create within three (3) months from the effectivity of this IRR, an Inter-Sectoral Committee to formulate the organizational guidelines on the formation of FARMCs.

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) members consisting of:

- 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;
- e. two (2) members from the academe; and
- f. 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.

Rule 70.1 Interim NFARMC. – The Secretary shall issue an Administrative Order, within three (3) months from the effectivity of this IRR, designating interim members of the NFARMC which shall prepare and complete the guidelines for the formation of the NFARMC.

SEC. 71. Terms of Office. - The members of NFARMC, except the Undersecretary of Agriculture and the Undersecretary of the Interior and Local Government, shall serve for a term of three (3) years without reappointment.

SEC. 72. Functions of the NFARMC. - The NFARMC shall have the following functions;

- a. assist in the formulation of national policies for the protection, sustainable development and management of fishery and aquatic resources for the approval of the Secretary;
- b. assist the Department in the preparation of the National Fisheries and Industry Development Plan; and
- c. perform such other functions as may be provided by law.

SEC. 73. The Municipal/City Fisheries and Aquatic Resources Management Councils (M/CFARMCs). - The M/CFARMCs shall be created in each of the municipalities and cities abutting municipal waters. However, the LGU may create the Barangay Fisheries and Aquatic Resources Management Councils (BFARMCs) and the Lakewide Fisheries and Aquatic Resources

Management Councils (LFARMCs) whenever necessary. Such BFARMCs and LFARMCs shall serve in an advisory capacity to the LGUs.

SEC. 74. Functions of the M/CFARMCs. - The M/CFARMCs shall exercise the following functions:

a.

assist in the preparation of the Municipal Fishery Development Plan and submit such plan to the Municipal Development Council;

b.

recommend the enactment of municipal fishery ordinances to the sangguniang bayan/sangguniang panlungsod through its Committee on Fisheries;

c.

assist in the enforcement of fishery laws, rules and regulations in municipal waters;

d.

advise the sangguniang bayan/panlungsod on fishery matters through its Committee on Fisheries, if such has been organized; and

e.

perform such other functions which may be assigned by the sangguniang bayan/panlungsod.

SEC. 75. Composition of the M/CFARMC. - The regular member of the M/CFARMCs shall be composed of :

a.

Municipal/City Planning Development Officer;

b.

Chairperson, Agriculture/Fishery Committee of the Sangguniang Bayan/Panlungsod

c.

representative of the Municipal/City Development Councils;

d.

representative from the accredited non-government organization;

e.

representative from the private sector;

f.

representative from the Department of Agriculture; and

g.

at least eleven (11) fisherfolk representatives (seven (7) municipal fisherfolk, one (1) fishworker and three (3) commercial fishers) in each municipality/city which include representative from youth and women sector.

The Council shall adopt rules and regulations necessary to govern its proceedings and election.

SEC. 76. The Integrated Fisheries and Aquatic Resources Management Councils (IFARMCs). - The IFARMCs shall be created in bays, gulf , lakes, and rivers and dams bounded by two (2) or more municipalities/cities.

SEC. 77. Functions of the IFARMCs. - The IFARMC shall have the following functions:

a.

assist in the preparation of the Integrated Fishery Development Plan and submit such plan to the concerned Municipal Development Councils;

b.

recommend the enactment of integrated fishery ordinances to the concerned sangguniang bayan/panlungsod through its Committee of Fisheries, if such has been organized;

c.

assist in the enforcement of fishery laws, rules and regulations in concerned municipal waters;

d.

advise the concerned sangguniang bayan/panlungsod on fishery matters through its Committee on Fisheries, if such has been organized; and

e.

perform such other functions which may be assigned by the concerned sangguniang bayan/panlungsod.

SEC. 78. Composition of the IFARMCs. - The regular members of the IFARMCs shall be composed of the following:

a.

the chairperson of the Committee on Agriculture/Fisheries of the concerned sangguniang bayan/panlungsod;

b.

the Municipal/City Fisheries Officers of the concerned municipalities/cities;

c.

the Municipal/City Development Officers of the concerned municipalities/cities;

d.

one (1) representative from NGO;

e.

one (1) representative from private sector; and

f.

at least nine (9) representatives from the fisherfolk sector which include representatives from the youth and women sector.

The Council shall adopt rules and regulations necessary to govern its proceedings and election.

SEC. 79. Source of Funds of the FARMCs. - A separate fund for the NFARMC, IFARMCs and M/CFARMCs shall be established and administered by the Department from the regular annual budgetary appropriations.

CHAPTER IV

FISHERIES RESERVES, REFUGE AND SANCTUARIES

SEC. 80. Fishing Areas/Reserves for Exclusive Use of Government.- The Department may designate area or areas in Philippine waters beyond fifteen (15) kilometers from shoreline as fishery reservation for the exclusive use of the government or any of its political subdivisions, agencies or instrumentalities, for propagation, educational, research and scientific purposes: Provided, That in municipalities or cities, the concerned LGUs in consultation with the FARMCs may recommend to the Department that portion of the municipal waters be declared as fishery reserves for special or limited use, for educational, research, and/or special management purposes. The FARMCs may recommend to the Department portions of the municipal waters which can be declared as fisheries reserves for special or limited use for educational, research and special management purposes.

Rule 80.1 Regulations. – The Department, through BFAR, shall issue the appropriate FAO, through a participatory process with other agencies concerned designating fishery reservations for the exclusive use of the government or any of its political subdivisions, agencies or instrumentalities, for propagation, educational, research and scientific purposes.

SEC. 81. Fish Refuge and Sanctuaries. - The Department may establish fish refuge and sanctuaries to be administered in the manner to be prescribed by the BFAR at least twenty-five percent (25%) but not more than forty percent (40%) of bays, foreshore lands, continental shelf or any fishing ground shall be set aside for the cultivation of mangroves to strengthen the habitat and the spawning grounds of fish. Within these areas no commercial fishing shall be allowed. All marine fishery reserves, fish sanctuaries and mangrove swamp reservations already declared or proclaimed by the President or legislated by the Congress of the Philippines shall be continuously administered and supervised by the concerned agency: Provided, however, That in municipal waters, the concerned LGU in consultation with the FARMCs may establish fishery refuge and sanctuaries: The FARMCs may also recommend fishery refuge and sanctuaries: Provided. further, That at least fifteen percent (15%) where applicable of the total coastal areas in each municipality shall be identified, based on the best available scientific data and in consultation with the Department, and automatically designated as fish sanctuaries by the LGUs in consultation with the concerned FARMCs.

Rule 81.1 Regulations. – The Department, through BFAR, shall within six (6) months from the effectivity of this IRR, call for a participatory process to formulate the policy on prohibitions of fisheries activities including industrial and economic activities in areas declared as fish refuge and sanctuaries and shall issue the appropriate FAO.

CHAPTER V

FISHERIES RESEARCH AND DEVELOPMENT

SEC. 82. Creation of a National Fisheries Research and Development Institute (NFRDI) - In recognition of the important role of fisheries research in the development, management, conservation and protection of the country's fisheries and aquatic resources, there is hereby created a National Fisheries Research and Development Institute (NFRDI).

The Institute shall form part of the National Research and Development Network of the Department of Science and Technology (DOST).

The Institute, which shall be attached to the Department, shall serve as the primary research arm of the BFAR. The overall governance of the Institute shall be vested in the Governing Board which shall formulate policy guidelines for its operation. The plans, programs and operational budget shall be passed by the Board. The Board may create such committees as it may deem necessary for the proper and effective performance of its functions. The composition of the Governing Board shall be as follows:

- a. Undersecretary for Fisheries - Chairman
- b. BFAR Director - Vice Chairman
- c. NFRDI Executive Director - Member
- d. PCAMRD Director General - Member
- e. Representative from the academe - Member
- f.

four (4) representatives from the private sector who shall come from the following subsectors - Members

Municipal Fisherfolk
Commercial Fishing Operator
Aquaculture Operator
Post Harvest/Processors

The NFRDI shall have a separate budget specific to its manpower requirements and operations to ensure the independent and objective implementation of its research activities.

Rule 82.1 Organizational Structure. – The Secretary shall designate, within one (1) month from the effectivity of this IRR, an interim Undersecretary for Fisheries, Executive Director of NFRDI

and members of the Governing Board to formulate the organizational structure and policies and guidelines for the operation of NFRDI.

SEC. 83. Qualification Standard - The Institute shall be headed by an Executive Director to be appointed by the President of the Philippines upon the recommendation of the governing board. The Executive Director shall hold a Doctorate degree in fisheries and or/other related disciplines. The organizational structure and staffing pattern shall be approved by the Department: Provided however, That the staffing pattern and remunerations for scientific and technical staff shall be based on the qualification standards for science and technology personnel.

SEC. 84. Research and Development Objectives - Researches to be done by the NFRDI are expected to result in the following:

a.

to raise the income of the fisherfolk and to elevate the Philippines among the top five (5) in the world ranking in the fish productions;

b.

to make the country's fishing industry in the high seas competitive;

c.

to conduct social research on fisherfolk families for a better understanding of their conditions and needs and;

d.

to coordinate with the fisheries schools, LGUs and private sectors regarding the maximum utilization of available technology, including the transfer of such technology to the industry particularly the fisherfolk.

SEC. 85. Functions of the NFRDI - As a national institute, the NFRDI shall have the following functions:

a.

establish a national infrastructure unit complete with technologically-advanced features and modern scientific equipment, which shall facilitate, monitor, and implement various research needs and activities of the fisheries sector;

b.

provide a venue for intensive training and development of human resources in the field of fisheries, a repository of all fisheries researches and scientific information;

c.

provide intensive training and development of human resources in the field of fisheries for the maximum utilization of available technology;

d.

hasten the realization of the economic potential of the fisheries sector by maximizing developmental research efforts in accordance with the requirements of the national fisheries conservation and development programs, also possibly through collaborate effort with international institutions; and

e.

formally establish, strengthen and expand the network of fisheries-researching communities through effective communication linkages nationwide.

CHAPTER VI PROHIBITIONS AND PENALTIES

SEC. 86. Unauthorized Fishing or Engaging in other Unauthorized Fisheries Activities. - No person shall exploit, occupy, produce, breed, culture, capture or gather fish, fry or fingerlings of any fishery species or fishery products, or engage in any fishery activity in Philippine waters without a license, lease or permit.

Discovery of any person in an area where he has no permit or registration papers for a fishing vessel shall constitute a prima facie presumption that the person and/or vessel is engaged in unauthorized fishing: Provided, That fishing for daily food sustenance or for leisure which is not for commercial, occupation or livelihood purposes may be allowed.

It shall be unlawful for any commercial fishing vessel to fish in bays and in such other fishery management areas which may hereinafter be declared as over-exploited.

Any commercial fishing boat captain or the three (3) highest officers of the boat who commit any of the above prohibited acts upon conviction shall be punished by a fine equivalent to the value of catch or Ten thousand pesos (P10,000.00) whichever is higher, and imprisonment of six (6) months, confiscation of catch and fishing gears, and automatic revocation of license.

It shall be unlawful for any person not listed in the registry of municipal fisherfolk to engage in any commercial fishing activity in municipal waters. Any municipal fisherfolk who commits such violation shall be punished by confiscation of catch and a fine of Five hundred pesos (P500.00.00).

Rule 86.1 Leisure or Game Fishing. – The Department, through BFAR in coordination with Department of Tourism (DOT) and other concerned agencies, shall issue, within one (1) year from effectivity of this IRR, the appropriate FAO for leisure or game fishing;

SEC. 87. Poaching in Philippine Waters.- It shall be unlawful for any foreign person, corporation or entity to fish or operate any fishing vessel in Philippine waters.

The entry of any foreign fishing vessel in Philippine waters shall constitute a prima facie evidence that the vessel is engaged in fishing in Philippine waters.

Violation of the above shall be punished by a fine of One Hundred Thousand U.S. Dollars (US\$100,000.00), in addition to the confiscation of its catch, fishing equipment and fishing vessel: Provided, That the Department is empowered to impose an administrative fine of not less than Fifty Thousand U.S. Dollars (US\$50,000.00) but not more than Two Hundred Thousand U.S. Dollars (US\$200,000.00) or its equivalent in the Philippine Currency.

The Department, through BFAR, shall:

Rule 87.1 Regulation. – Coordinate with CABCOM-MOA Technical Working Group and other law enforcement agencies and issue the appropriate FAO, within six (6) months from the effectivity of this IRR, on poaching in Philippine waters;

Rule 87.2 Reports. – Coordinate with DOTC to require officers of inter-island vessels, skippers and officers of commercial fishing vessels to report sightings of foreign vessels.

SEC. 88. Fishing Through Explosives, Noxious or Poisonous Substance, and/or Electricity. - (1)

It shall be unlawful for any person to catch, take or gather or cause to be caught, taken or gathered, fish or any fishery species in Philippine waters with the use of electricity, explosives, noxious or poisonous substances such as sodium cyanide in the Philippine fishery areas, which will kill, stupefy, disable or render unconscious fish or fishery species: Provided, That the Department, subject to such safeguards and conditions deemed necessary and endorsement from the concerned LGUs may allow, for research, educational or scientific purposes only, the use of electricity, poisonous or noxious substances to catch, take or gather fish or fishery species: Provide, further, That the use of poisonous or noxious substances to eradicate predators in fishponds in accordance with accepted scientific practices and without causing adverse environmental impact in neighboring waters and grounds shall not be construed as illegal fishing.

It will likewise be unlawful for any person, corporation or entity to possess, deal in, sell or in any manner dispose of, any fish or fishery species which have been illegally caught, taken or gathered.

The discovery of dynamite, other explosives and chemical compounds which contain combustible elements, or noxious or poisonous substance, or equipment or device for electro-fishing in any fishing vessel or in the possession of any fisherfolk, operator, fishing boat official or fishworker shall constitute a prima facie evidence, that the same was used for fishing in violation of this Code. The discovery in any fishing vessel of fish caught or killed with the use of explosive, noxious or poisonous substances or by electricity shall constitute prima facie evidence that the fisherfolk, operator, boat official or fishworker is fishing with the use thereof.

(2)

Mere possession of explosive, noxious or poisonous substances or electrofishing devices for illegal fishing shall be punishable by imprisonment ranging from six (6) months to two (2) years.

(3)

Actual use of explosives, noxious or poisonous substances or electrofishing devices for illegal fishing shall be punishable by imprisonment ranging from five (5) years to ten (10) years without prejudice to the filing of separate criminal cases when the use of the same result to physical injury or loss of human life.

(4) Dealing in, selling, or in any manner disposing of, for profit, illegally caught/gathered fisheries species shall be punished by imprisonment ranging from six (6) months to two (2) years.

(5)

In all cases enumerated above, the explosives, noxious or poisonous substances and/or electrical devices, as well as the fishing vessels, fishing equipment and catch shall be forfeited.

Rule 88.1 Regulation on Confiscated Catch, Fishing Vessels, Gears and Paraphernalia. – The Department, through BFAR, shall issue, within one (1) year from the effectivity of this IRR, the appropriate FAO on the disposition of confiscated catch and impoundment of fishing vessels, equipment and other fishing paraphernalia.

SEC. 89. Use of Fine Mesh Net. - It shall be unlawful to engage in fishing using nets with mesh smaller than that with which may be fixed by the Department: Provided, That the prohibition on the use of fine mesh net shall not apply to the gathering of fry, glass eels, elvers, tabios, and alamang and such species which by their nature are small but already mature to be identified in the implementing rules and regulations by the Department.

Violation of the above shall subject the offender to a fine from Two thousand pesos (P2,000.00) to Twenty thousand pesos (P20,000.00) or imprisonment from six (6) months to two (2) years

or both such fine and imprisonment at the discretion of the court: Provided, That if the offense is committed by a commercial fishing vessel, the boat captain and the master fisherman shall also be subject to the penalties herein: Provided, further, That the owner/operator of the commercial fishing vessel who violates this provision shall be subjected to the same penalties provided herein: Provided, finally, That the Department is hereby empowered to impose upon the offender an administrative fine and/or cancel his permit or license or both.

The Department, through BFAR, shall:

Rule 89.1 Regulation of Mesh Sizes. – Issue the appropriate FAO, within one (1) year from the effectivity of this IRR on the allowable mesh size for different gears which may serve as guidelines for LGUs in the implementation of this prohibition in municipal waters;

Rule 89.2 Determination of Juvenile Fishes. – Issue the appropriate FAO on fishes considered in juvenile stage and penalizing possession, thereof.

SEC. 90. Use of Active Gear in the Municipal Waters and Bays and Other Fishery Management Areas. - It shall be unlawful to engage in fishing in municipal waters and in all bays as well as other fishery management areas using active fishing gears as defined in this Code.

Violators of the above prohibitions shall suffer the following penalties:

(1) The boat captain and master fisherman of the vessels who participated in the violation shall suffer the penalty of imprisonment from two (2) years to six (6) years;

(2) The owner/operator of the vessel shall be fined from Two thousand pesos (P2,000.00) to Twenty thousand pesos (P20,000.00) upon the discretion of the court.

If the owner/operator is a corporation, the penalty shall be imposed on the chief executive officer of the Corporation.

If the owner/operator is a partnership the penalty shall be imposed on the managing partner.

(3) The catch shall be confiscated and forfeited.

Rule 90.1 Regulation. - The Department, through BFAR, shall issue, within one (1) year from the effectivity of this IRR, the appropriate FAO to implement this Section.

SEC. 91. Ban on Coral Exploitation and Exportation. - It shall be unlawful for any person or corporation to gather, possess, sell or export ordinary precious and semi-precious corals, whether raw or in processed form, except for scientific or research purposes.

Violations of this provision shall be punished by imprisonment from six (6) months to two (2) years and a fine from Two thousand pesos (P2,000.00) to Twenty thousand pesos (P20,000.00),

or both such fine and imprisonment, at the discretion of the court, and forfeiture of the subject corals, including the vessel and its proper disposition.

The confiscated corals shall either be returned to the sea or donated to schools and museums for educational or scientific purposes or disposed through other means.

Rule 91.1 Regulation. - The Department, through BFAR, shall issue, within one (1) year from the effectivity of this IRR, the appropriate FAO to implement this Section.

SEC. 92. Ban on Muro-Ami, Other Methods and Gear Destructive to Coral Reefs and Other Marine Habitat. - It shall be unlawful for any person, natural or juridical, to fish with gear method that destroys coral reefs, seagrass beds, and other fishery marine life habitat as may be determined by the Department. "Muro-Ami" and any of its variation, and such similar gear and methods that require diving, other physical or mechanical acts to pound the coral reefs and other habitat to entrap, gather or catch fish and other fishery species are also prohibited.

The operator, boat captain, master fisherman, and recruiter or organizer of fishworkers who violate this provision shall suffer a penalty of two (2) years to ten (10) years imprisonment and a fine of not less than One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) or both such fine and imprisonment, at the discretion of the court. The catch and gear used shall be confiscated.

It shall likewise be unlawful for any person or corporation to gather, sell or export white sand, silica, pebbles and any other substances which make up any marine habitat.

The person or corporation who violates this provision shall suffer a penalty of two (2) years to ten (10) years imprisonment and a fine of not less than One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) or both such fine and imprisonment, at the discretion of the court. The substance taken from its marine habitat shall be confiscated.

Rule 92.1 Regulations. - The Department, through BFAR, shall issue, within one (1) year from the effectivity of this IRR, the appropriate FAO to implement this Section.

Rule 92.2 Regulation by LGUs. - The LGUs, shall enact the appropriate Municipal Fisheries Ordinance prohibiting destructive fishing gears and its variations in accordance with national policies;

Rule 92.3 Regulation. - The LGUs, in consultation with the Bureau of Mines and Geo Sciences shall issue the appropriate Municipal Fisheries Ordinance prohibiting the gathering, selling, mining, exporting of white sand which include coralline and coral sand, silica, and pebbles.

SEC. 93. Illegal Use of Superlights. - It shall be unlawful to engage in fishing with the use of superlights in municipal waters or in violation of the rules and regulations which may be promulgated by the Department on the use of superlights outside municipal waters.

Violations of this provision shall be punished by imprisonment from six (6) months to two (2) years or a fine of Five thousand pesos (P5,000.00) per superlight, or both such fine and imprisonment at the discretion of the courts. The superlight, fishing gears and vessel shall be confiscated.

SEC. 94. Conversion of Mangroves. - It shall be unlawful for any person to convert mangroves into fishponds or for any other purposes.

Violation of the provision of this section shall be punished by imprisonment of six (6) years and one (1) day to twelve (12) years and/or a fine of Eighty thousand pesos (P80,000.00): Provided, That if the area requires rehabilitation or restoration as determined by the court, the offender should also be required to restore or compensate for the restoration of the damage.

SEC. 95. Fishing in Overfished Area and During Closed Season. - It shall be unlawful to fish in overfished area and during closed season.

Violation of the provision of this section shall be punished by imprisonment of six (6) months and one (1) day to six (6) years and/or fine of Six thousand pesos (P6,000.00) and by forfeiture of the catch and cancellation of fishing permit or license.

SEC. 96. Fishing in Fishery Reserves, Refuge and Sanctuaries. - It shall be unlawful to fish in fishery areas declared by the Department as fishery reserves, refuge and sanctuaries.

Violation of the provision of this section shall be punished by imprisonment of two (2) years to six (6) years and/or fine of Two thousand pesos (P2,000.00) to Twenty thousand pesos (P20,000.00) and by forfeiture of the catch and the cancellation of fishing permit or license.

SEC. 97. Fishing or Taking of Rare, Threatened or Endangered Species. - It shall be unlawful to fish or take rare, threatened or endangered species as listed in the CITES and as determined by the Department.

Violation of the provision of this section shall be punished by imprisonment of twelve (12) years to twenty (20) years and/or a fine of One hundred and twenty thousand pesos (P120,000.00) and forfeiture of the catch, and the cancellation of fishing permit.

SEC. 98. Capture of Sabalo and Other Breeders/Spawners. - It shall be unlawful for any person to catch, gather, capture or possess mature milkfish or "sabalo" and such other breeders or spawners of other fishery species as may be determined by the Department: Provided, That catching of sabalo and other breeders/spawners for local breeding purposes or scientific or research purposes may be allowed subject to guidelines to be promulgated by the Department.

Violation of the provision of this section shall be punished by imprisonment of six (6) months and one (1) day to eight (8) years and/or a fine of Eighty Thousand Pesos (P80,000.00) and forfeiture of the catch, and fishing equipment used and revocation of license.

The Department, through BFAR, shall:

Rule 98.1 Regulation. – Issue, within one (1) year upon effectivity of this IRR, the appropriate FAO on the list of breeders or spawners of important fishery species to be included in this ban and when necessary, declare a closed season on important fisheries areas where these spawners are found during known spawning time.

SEC. 99. Exportation of Breeders, Spawners, Eggs or Fry. - Exportation of breeders, spawners, eggs or fry as prohibited in this Code shall be punished by imprisonment of eight (8) years, confiscation of the same or a fine equivalent to double the value of the same, and revocation of the fishing and/or export license/permit.

SEC. 100. Importation or Exportation of Fish or Fishery Species. - Any importation or exportation of fish or fisheries species in violation of this Code shall be punished by eight (8) years of imprisonment, a fine of Eighty Thousand Pesos (P80,000.00) and destruction of live fishery species or forfeiture of non-live fishery species in favor of the department for its proper disposition: Provided, That violator of this provision shall be banned from being members or stock holders of companies currently engaged in fisheries or companies to be created in the future, the guidelines for which shall be promulgated by the Department.

SEC. 101. Violation of Catch Ceilings. - It shall be unlawful for any person to fish in violation of catch ceilings as determined by the Department. Violation of the provision of this section shall be punished by imprisonment of six (6) months and one (1) day to six (6) years and/or a fine of Fifty Thousand Pesos (P50,000.00) and forfeiture of the catch, and fishing equipment used and revocation of license.

SEC. 102. Aquatic Pollution. - Aquatic pollution, as defined in this Code shall be unlawful.

Violation of the provision of this section shall be punished by imprisonment of six (6) years and one (1) day to twelve (12) years and/or a fine of Eighty thousand pesos (P80,000.00) plus an additional fine of Eight thousand pesos (P8,000.00) per day until such violation ceases and the fines paid.

SEC. 103. Other Violations. - The following fisheries activities shall also be considered as a violation of this Code:

a.

Failure to Comply with Minimum Safety Standards. - The owner and captain of a commercial fishing vessel engaged in fishing who, upon demand by proper authorities, fails to exhibit or show proof of compliance with the safety standards provided in this Code, shall be immediately

prevented from continuing with his fishing activity and escorted to the nearest port or landing point. The license to operate the commercial fishing vessel shall be suspended until the safety standard has been complied with.

b.

Failure to Conduct a Yearly Report on all Fishponds, Fish Pens and Fish Cages. - The FLA of the holder who fails to render a yearly report shall be immediately canceled: Provided, That if the offender be the owner of the fishpond, fish pen or fish cage, he shall be subjected to the following penalties: (1) first offense, a fine of Five hundred pesos (P500.00) per unreported hectare; (2) subsequent offenses, a fine of One thousand pesos (P1,000.00) per unreported hectare.

c.

Gathering and Marketing of Shell Fishes. - It shall be unlawful for any person to take, sell, transfer, or have in possession for any purpose any shell fish which is sexually mature or below the minimum size or above the maximum quantities prescribed for the particular species.

d.

Obstruction to Navigation or Flow and Ebb of Tide in any Stream, River, Lake or Bay. - It shall be unlawful for any person who causes obstruction to navigation or flow of ebb of tide.

e.

Construction and Operation of Fish Corals/Traps, Fish Pens and Fish Cages. - It shall be unlawful to construct and operate fish corals/traps, fish pens and fish cages without a license/permit.

Subject to the provision of the subparagraph (b) of this section, violation of the above-enumerated prohibited acts shall subject the offender to a fine ranging from Two thousand pesos (P2,000.00) to Ten thousand pesos (P10,000.00) or imprisonment from one (1) month and one (1) day to six (6) months, or both such fine and imprisonment, upon the discretion of the Court: Provided, That the Secretary is hereby empowered to impose upon the offender an administrative fine of not more that Ten thousand pesos (P10,000.00) or to cancel his permit or license, or to impose such fine and to cancel his permit or license, in the discretion of the Secretary; Provided, further, That the Secretary, or his duly authorized representative, and law enforcement agents are hereby empowered to impound with the assistance of the Philippine Coast Guard, PNP-Maritime Command: Provided, finally, That any person who unlawfully obstructs or delays the inspection and/or movement of fish and fishery/aquatic products when such inspection and/or movement is authorized under this Code, shall be subject to a fine of not more than Ten Thousand Pesos (P10,000.00) or imprisonment of not more that two (2) years, or both such fine and imprisonment, upon the discretion of the Court.

Every penalty imposed for the commission of an offense shall carry with it the forfeiture of the proceeds of such offense and the instruments or tools with which it was committed.

Such proceeds and instruments or tools shall be confiscated and forfeited in favor of the Government, unless they be the property of a third person not liable for the offense, but those articles which are not subject of lawful commerce shall be destroyed.

SEC. 104. Commercial Fishing Vessel Operators Employing Unlicensed Fisherfolk or Fishworker or Crew. - The owner/operator of a commercial fishing vessel employing unlicensed fisherfolk or fishworker shall be fined Five hundred pesos (P500.00) each for every month that the same has been employed and/or One thousand pesos (P1,000.00) for every month for each unlicensed crew member who has been employed.

Rule 104.1 Fishworker License. – The validity of the license of the fishworker, shall be three (3) years from the date of issuance, thereof.

SEC. 105. Obstruction of Defined Migration Paths. - Obstruction of any defined migration paths of anadromous, catadromous and other migratory species, in areas including, but not limited to river mouths and estuaries within a distance determined by the concerned FARMCs shall be punished by imprisonment of seven (7) years to twelve (12) years or a fine from Fifty thousand pesos (P50,000.00) to One hundred thousand pesos (P100,000.00) or both imprisonment and fine at the discretion of the court, and cancellation of permit/license, if any, and dismantling of obstruction shall be at his own expense and confiscation of same.

SEC. 106. Obstruction to Fishery Law Enforcement Officer. - The boat owner, master or operator or any person acting on his behalf of any fishing vessel who evades, obstructs or hinder any fishery law enforcement officer of the Department to perform his duty, shall be fined Ten thousand pesos (P10,000.00). In addition, the registration, permit and/or license of the vessel including the license of the master fisherman shall be canceled.

Rule 106.1 Regulations. – The Department, through BFAR, shall promulgate the rules to implement this Section consistent with the Revised Penal Code.

SEC. 107. Promulgation of Administrative Orders. - For purposes of fishery regulation or other fishery adjustments, the Department in consultation with the LGUs and local FARMCs, shall issue Fishery Administrative Orders or regulations for the conservation, preservation, management and sustainable development of fishery and aquatic resources.

The Department, through BFAR, shall be guided by the following:

Rule 107.1 Issuance of New FAOs. – The FAOs issued to implement this Code shall include pertinent provisions of related existing FAOs;

Rule 107.2 Effectivity of Existing FAOs. – Existing FAOs consistent with the provisions of this Code shall remain in force until the same are amended or repealed;

Rule 107.3 Consultation. – The NFARMC and concerned FARMCs shall be consulted prior to the issuance of FAO;

Rule 107.4 Effectivity. – All FAOs, unless otherwise herein provided, shall take effect fifteen (15) days after their publication in the Official Gazette and/or in two (2) newspapers of general circulation.

CHAPTER VII

GENERAL PROVISIONS

SEC. 108. Fisherfolk Settlement Areas. - The Department shall establish and create fisherfolk settlement areas in coordination with concerned agencies of the government, where certain areas of the public domain, specifically near the fishing grounds, shall be reserved for the settlement of the municipal fisherfolk. Nothing in this section shall be construed to vest ownership of any resettlement area to a municipal fisherfolk for whom said areas may have been reserved for or had been actually granted to.

Rule 108.1 Fisherfolk Settlement Areas. – The Department, through BFAR in coordination with Department of Agrarian Reform (DAR), DILG and other agencies concerned, shall establish a fisherfolk settlement area that shall be seen in the context of an integrated, holistic and self-reliant community to include alternative source of income.

SEC. 109. Municipal Fisheries Grant Fund. - For the development, management and conservation of the municipal resources, there is hereby created a Fishery Grant Fund to finance fishery projects of the LGUs primarily for the upliftment of the municipal fisherfolk. The amount of One hundred million pesos(P100,000,000.00) is hereby appropriated out of the Department's allocation in the General Appropriations Act (GAA) to support the Grant Fund.

For this purpose, the Department may seek financial assistance from any source and may receive any donations therefore.

The Department, through BFAR, shall:

Rule 109.1 Fisheries Grant Fund. – Secure from the General Appropriations Act and other sources the amount of One Hundred Million Pesos (P100,000,000.00) for the creation of a Municipal Fisheries Grant Fund to finance fisheries projects of the LGUs primarily for the upliftment of the municipal fisherfolk;

Rule 109.2 Implementing Guidelines for the Fisheries Grant Fund. – The Inter-Agency Credit Committee formed under Rule 34.1 shall formulate the guidelines for the implementation of Municipal Fisheries Grant Fund.

SEC. 110. Fishery Loan and Guarantee Fund. - Pursuant to Section 7, Article XIII of the Constitution, there is hereby created a Fishery Loan and Guarantee Fund with an initial of One hundred million pesos (P100,000,000.00), which shall be administered by the Land Bank of the Philippines. The fund shall be made available for lending to qualified borrowers to finance the development of the fishery industry under a program to be prescribed by the Department

For the same purpose, the Department may seek financial assistance from any source and may receive donation therefrom.

The Department, through BFAR, shall:

Rule 110.1 Fishery Loan and Guarantee Fund. – Secure from the General Appropriations Act and other sources the initial amount of One Hundred Million pesos (P100,000,000.00) under the projects/programs jointly prescribed by the Department and Land Bank of the Philippines;

Rule 110.2 Implementing Guidelines. – The Inter-Agency Committee formed under Rule 34.1 shall prepare the implementing guidelines for the Fishery Loan and Guarantee Fund.

SEC. 111. Fishing Vessels Development Fund. - There is hereby created a Fishing Vessels Development Fund to enhance the building and/or acquisition of fishing vessels. This shall be a long-term loan facility that shall be administered by the Development Bank of the Philippines. The amount of Two hundred and fifty million pesos (P250,000,000.00) per year for five (5) years is hereby appropriated out of the Department's allocation in the GAA to support this Development Fund.

The Department, through BFAR, shall:

Rule 111.1 Fishing Vessels Development Fund. – Secure from the General Appropriations Act and other sources the amount of Two hundred fifty million pesos (P250,000,000.00) annually for the next five years to be placed under the administration of the Development Bank of the Philippines (DBP) as the fishing vessels development fund which shall be used as a long term loan facility to enhance the building and/or acquisition of fishing vessels;

Rule 111.2 Implementing Guidelines - The Inter-Agency Committee formed under Rule 34.1 shall prepare the implementing guidelines for the Fishing Vessel Development Fund.

SEC. 112. Special Fisheries Science and Approfishtech Fund. - The Department shall provide subsidy for full technical and financial support to the development of appropriate technology, both in fishery and ancillary industries, that are ecologically sound, locally source-based and labor intensive, based on the requirement and needs of the FARMCs. An initial amount of One hundred million pesos (P100,000,000.00) shall be authorized for the purpose of a Special Fisheries Science and Approfishtech Fund, and thereafter shall be included in the GAA.

SEC. 113. Aquaculture Investment Fund. - An Aquaculture Investment Fund in the minimum amount of Fifty million pesos (P50,000,000.00) shall be established for soft loans which shall be extended to municipal fisherfolk and their organization who will engage in aquaculture, and for the development of underdeveloped or underutilized inland fishponds.

The Department, through BFAR, shall:

Rule 113.1 Aquaculture Investment Fund. – Secure from the General Appropriations Act and other sources the minimum amount of Fifty million pesos (P50,000,000.00) which shall be established as an aquaculture investment fund to be used as soft loans for municipal fisherfolk and their organization who will engage in aquaculture, and for the development of underdeveloped or underutilized inland fishponds;

Rule 113.2 Implementing Guidelines - The Inter-Agency Committee formed under Rule 34.1 shall prepare the implementing guidelines on the Aquaculture Investment Fund.

SEC. 114. Other Fisheries Financing Facilities. - In addition to fisheries credit guarantee, grant and other similar facilities granted under this Code, qualified Filipino fisherfolk and fisheries enterprises shall enjoy such other facilities granted them under existing and/or new laws, specially as to rural credit, with preference being given to fisheries cooperatives.

Rule 114.1 Implementing Guidelines - An Inter-Agency Committee formed under Rule 34.1 shall prepare the implementing guidelines on Other Fisheries Financing Facilities.

SEC. 115. Professionalization of Fisheries Graduates. - There is hereby created a Fisheries Board of Examiners in the Professional Regulation Commission to upgrade the Fisheries Profession: Provided, however, That those who have passed the Civil Service Examination for Fisheries shall automatically be granted eligibility by the Fisheries Board of Examiners: Provided, further, That they have served the industry in either public or private capacity for not less than five (5) years: Provided, finally, That the first Board Examination for B.S. Fisheries Graduates shall be conducted within one (1) year from the approval of this Code.

Rule 115.1 Fisheries Board of Examiners. – The Department, through BFAR, shall coordinate with the Professional Regulation Commission (PRC) and Civil Service Commission (CSC) and other appropriate agencies on the Creation of Fisheries Board of Examiners to upgrade the Fisheries Profession.

SEC. 116. Upgrading of the State Fisheries Schools/Colleges. - The Department, in coordination with the Commission on Higher Education (CHED), Department of Education, Culture and Sports (DECS), and Technical Education and Skills Development Authority (TESDA), shall upgrade State Fisheries Schools/Colleges which provide both formal and non-formal education : Provided, however, That the CHED shall incorporate Approfishtech in the curricula of fisheries schools/colleges.

The Department and the CHED shall jointly formulate standards to upgrade all fisheries schools/colleges. Fisheries schools/colleges that do not meet minimum standards shall be closed.

Rule 116.1 Implementation. – The Department, through BFAR, shall coordinate with the appropriate agencies to implement this Section.

The Department and the CHED shall jointly formulate standards to upgrade all fisheries schools/colleges. Fisheries schools/colleges that do not meet minimum standards shall be closed.

SEC. 117. Inclusion of Fisheries Conservation Subjects in School Curriculum. - Fisheries conservation subjects shall be incorporated in the curricula of elementary and secondary schools both private and public.

Rule 117.1 The Department, through BFAR, shall coordinate with the Department of Education, Culture and Sports (DECS) to implement this Section.

SEC. 118. Educational Campaign at all levels. - The Department, the CHED, the DECS and the Philippine Information Agency shall launch and pursue a nationwide educational campaign to:

- a. help realize the policies and implement the provisions of this Code;
- b. promote the development, management, conservation and proper use of the environment.
- c. promote the principle of sustainable development; and
- d. promote the development of truly Filipino-oriented fishing and ancillary industries.

Rule 118.1 Information Campaign. - The Department, through BFAR, shall launch and sustain an information campaign on sustainable development, fisheries conservation, management and development;

Rule 118.2 The Department, through BFAR, shall conduct directly or through accredited institutions, seminars on fishery laws, guidelines on apprehension of illegal fishing and poaching and trainings on value orientation to the PN, PCG, PNP, PNP-Maritime Command, law enforcement officers of the LGUs and other government enforcement agencies which under Section 124 are authorized to enforce this Code and other fishery laws, rules and regulations.

SEC. 119. Infrastructure Support - The Department in cooperation with concerned agencies shall:

a.

prepare and implement a nationwide plan for the development of municipal fishing ports and markets;

b.

prioritize the construction of farm-to-market roads linking the fisheries production sites, coastal landing points and other post-harvest facilities to major market and arterial roads/highways;

c.

identify community infrastructure facilities such as fish landing points, ice plants and cold storage facilities in consultation with fishery cooperatives/associations and prepare plans and designs for their construction that would be consistent with international environmental standards and occupational safety in sanitation and environmental impact;

d.

establish and maintain quality laboratories in major fish ports and prescribe the highest standards for the operation and maintenance of such post-harvest facilities;

e.

arrange and make representations with appropriate funding institutions to finance such facilities for the use of the fishery cooperatives/associations.

f.

develop and strengthen marketing facilities and promote cooperative marketing systems; and

g.

promote and strengthen local fisheries ship-building and repair industry.

Rule 119.1 Municipal Fishing Ports Plan. – The Department, through PFDA, in coordination with BFAR and other government agencies, shall prepare and implement a nationwide plan for the development of municipal fishing ports and other infrastructure facilities;

Rule 119.2. Laboratories. – BFAR, in coordination with PFDA, shall establish and maintain quality control laboratories consistent with international standards on safety and sanitation.

SEC. 120. Extension Services. - The Department shall develop cost-effective, practical and efficient extension services on a sustained basis, in addition to those provided by state educational institutions, especially to municipal fisherfolk in undeveloped areas, utilizing practicable and indigenous resources and government agencies available, and based upon a system of self-reliance and self-help.

Rule 120.1 National Fisheries Extension Program. - The Department, through BFAR, in cooperation with concerned agencies, shall develop and implement within one (1) year from the effectivity of this IRR, a National Fisheries Extension Program to implement this Section.

SEC. 121. Protection of Sensitive Technical Information. - The Department shall take such measures as may be necessary in order to protect trade, industrial and policy information of Filipino fisherfolk, fisheries owners/operators, entrepreneurs, manufacturers, and researchers, when disclosure of such information will injure the competitiveness or viability of domestic fisheries.

Rule 121.1 Implementing Guidelines. – The Department, through BFAR, shall coordinate with the Department of Trade and Industry (DTI), DOST and other concerned agencies to implement this Section.

SEC. 122. Assistance in Collecting Information. - The Department, in coordination with other government entities concerned, may require Filipino representatives abroad and foreign- based personnel to assist in the collection of fisheries data and information.

Rule 122.1 Implementing Guidelines. – The Department, through BFAR, shall coordinate with DFA and other concerned agencies to implement this Section.

SEC. 123. Charting of Navigational Lanes and Delineation of Municipal Waters. - The Department shall authorize the National Mapping and Resource Information Authority (NAMRIA) for the designation and charting of navigational lanes in fishery areas and delineation of municipal waters. The Philippine Coast Guard shall exercise control and supervision over such designated navigational lanes.

Rule 123.1 Navigational Lanes. - The Department, through BFAR, shall facilitate the designation and charting of navigational lanes in fishery areas by convening an Inter-Agency committee composed of NAMRIA, PN, PCG, MARINA, other concerned agencies and the N FARMC;

Rule 123.2 Mapping. – The Department, through BFAR, in coordination with the NAMRIA and with the participation of local government units concerned shall determine the outer limits of the municipal waters. Overlapping boundaries in municipal waters shall be governed by the Rules embodied in this law and the Local Government Code of 1991;

Rule 123.3 Navigational Charts. – Charts of navigational lane and outer limits of municipal waters shall be produced, published and regularly updated by NAMRIA;

Rule 123.4 Funding. – The Department, through DBM, shall allocate sufficient funds for these purposes.

SEC. 124. Persons and Deputies Authorized to Enforce this Code and Other Fishery Laws, Rules and Regulations. - The law enforcement officers of the Department, the Philippine Navy, the

Philippine Coast Guard, Philippine National Police (PNP), PNP- Maritime Command, law enforcement officers of the LGUs and other government enforcement agencies, are hereby authorized to enforce this Code and other fishery laws, rules and regulations. Other competent government officials and employees, punong barangays and officers and members of fisherfolk associations who have undergone training on law enforcement may be designated in writing by the Department as deputy fish wardens in the enforcement of this Code and other fishery laws, rules and regulations.

Rule 124.1 Enforcement of Fishery Laws in Municipal Waters. – The LGUs shall have authority over municipal waters to enforce all fishery laws, rules and regulations as well as valid fisheries ordinances enacted by the municipality/city council and may seek the assistance of the Department, through the BFAR, in the training of the Bantay Dagat Task Force in fishery laws, apprehension techniques and gathering of evidence;

Rule 124.2 Enforcement of Fishery Laws in Philippine Waters. – The rules in Section 14 shall apply to fishery law enforcement in Philippine waters;

Rule 124.3 Manuals. – The Department, through BFAR in coordination with DOTC-PCG, DND-PN, DFA, DOJ, Bureau of Immigration and Deportation (BID), Bureau of Customs (BC) and other concerned agencies shall formulate and issue manual of procedures for the apprehension, investigation and prosecution of violations of fishery laws.

SEC.125. Strengthening Prosecution and Conviction of Violators of Fishery Laws. - The Department of Justice (DOJ) shall embark on a program to strengthen the prosecution and conviction aspects of fishery law enforcement through augmentation of the current complement of state prosecutors and through their continuous training and reorientation on fishery laws, rules and regulations.

Rule 125.1 Technical Assistance to the Department of Justice (DOJ). - The Department shall assist the DOJ in strengthening the prosecution and conviction aspects of fishery law enforcement by providing technical manuals on the gathering of evidence of illegal fishing and apprehension techniques.

SEC. 126. Foreign Grants and Aids. - All foreign grants, aids, exchange programs, loans, researches and the like shall be evaluated and regulated by the Department to ensure that such are consistent with the Filipinization, democratization and industrialization of fishing industry and the development of the entire country.

Rule 126.1 Implementation. – An Inter-Agency Committee composed of the representatives of the National Economic and Development Authority (NEDA), Board of Investment (BOI), Department of Finance (DOF), DOST, DTI, DFA, DA, NFARMC and other concerned agencies shall be created to implement this Section.

Rule 125.1 Technical Assistance to the Department of Justice (DOJ). – The Department shall assist the DOJ in strengthening the prosecution and conviction aspects of fishery law enforcement by providing technical manuals on the gathering of evidence of illegal fishing and apprehension techniques.

SEC. 127. Mandatory Review. - The Congress of the Philippines shall undertake the mandatory review of this Code at least once every five (5) years and as often as it may deem necessary, to ensure that fisheries policies and guidelines remain responsive to changing circumstances.

Rule 127.1 Implementation. – The Department, through BFAR, shall submit proposed bills to amend certain conflicting and confiscatory provisions of this Code.

CHAPTER VIII TRANSITORY PROVISIONS

SEC. 128. Moratoria.- The Department shall, upon the recommendation of the Bureau, have the power to declare a moratorium on the issuance of licenses for commercial fishing vessels to operate in specified area or areas in Philippine waters in a limited period of time if there are indications of overfishing brought about by a decrease in the volume and sizes of fish caught therein or for conservation or ecological purposes.

No new licenses and similar privileges on exploitation of specific fisheries areas in Philippine waters and aquaculture production areas shall be issued in accordance with this Code. Such moratoria shall not exceed five (5) years from the effectivity of this Code.

Rule 128.1 Implementing Guidelines. – The Department, through BFAR, shall identify area or areas in Philippine waters which are overfished and declare a moratorium on the issuance of licenses for fish catcher vessels which operate in such fishing areas.

SEC. 129. Formulation of Implementing Rules and Regulations. - An Inter-agency Committee is hereby created to formulate rules and regulations for the full implementation of this Code within ninety (90) days of its effectivity: Provided, however, that the formulated rules and regulations shall be submitted to both Houses of Congress for information and guidance. Such rules and regulations shall take effect upon publication in a newspaper of general-circulation.

The Inter-agency Committee shall be composed of the following:

- a. Secretary of Agriculture as Chairman;
- b. Secretary of the Interior and Local Government;
- c. Secretary of Environment and Natural Resources;
- d. Secretary of Justice;
- e. Secretary of Finance;
- f. Secretary of Budget and Management;
- g. Secretary of Labor and Employment;

- h. Secretary of National Defense;
- i. Commissioner of Civil Service Commission;
- j. Director of the Bureau of Fisheries and Aquatic Resources;
- k. Executive Director of PCARMD;
- l. General Manager of PFDA;
- m. 1 Representative from each of the following:
 - a.1. the league of provinces;
 - a.2. the league of cities;
 - a.3. the league of municipalities;
 - a.4. the liga ng mga barangay;
- n. Representative of the municipal fisherfolk;
- o. Representative of the commercial fishers;
- p. Representative of the non-government organizations involved in fishing concerns; and
- q. A representative from the academe coming from the specialized fisheries institutions.

Rule 129.1 Creation of Inter-Agency Committee Technical Working Group. – The Department shall create a Technical Working Group under the Inter-Agency Committee to draft the IRR of this Code;

Rule 129.2 Additional Representatives. – Representatives from DFA, DTI, the aquaculture sector including the aquarium fish industry shall be included in the composition of the Inter-Agency Technical Working Group;

Rule 129.3 IRR Copies. – The Department shall furnish both Houses of Congress with copies of this IRR for their information and guidance;

Rule 129.4 Effectivity. – This IRR shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

CHAPTER IX

FINAL PROVISIONS

SEC. 130. Appropriation. - The sum necessary to effectively carry out the provisions of this Act during the first year of implementation shall be sourced from the budget of the DA/BFAR and other agencies performing fisheries-related functions: Provided , however, That such amount as may be necessary to carry out the provisions of Sections 79, 109, 110, 111, 112, 113 are hereby appropriated out of the unappropriated funds of the National Treasury. The Congress of the Philippines shall provide for the appropriations of the Department, the NFRDI and the Fisheries Scholarship Program for the succeeding years to be included in the annual GAA.

Rule 130.1 Budgetary Allocation for 1998. – The Secretary shall allocate within three (3) months from the effectivity of this IRR, the budget for BFAR and NFRDI to support the requirements for the implementation of this Code which shall be sourced from the 1998 General Appropriations Act for DA, BFAR and other agencies performing fisheries-related functions;

Rule 130.2 Budgetary Allocation for 1999. – The DBM shall allocate the budget for 1999 for BFAR and NFRDI to be sourced from the unprogrammed amount of the Department’s budget for 1999.

Rule 130.3 Subsequent Budget. – The budget for subsequent years which shall not be less than the amount of the prior years appropriations shall be submitted by the Department to be included in the annual General Appropriations Act.

Rule 130.4 FARMC Budget. – The Secretary shall allocate budget for FARMC which shall be sourced from its unprogrammed funds of the Department’s budget.

SEC. 131. Repealing Clause - Presidential Decree No. 704, as amended by Presidential Decree Nos. 1051 and 1058, Presidential Decree No. 977, amended, Executive Order No. 967, Series of 1984, Executive Order No. 116, Series of 1987, Executive Order No. 292, Series of 1987, Executive Order No. 473, Series of 1991 and other existing laws except Republic Act No. 7611, decrees, executive orders, and rules and regulations or parts thereof, which are inconsistent with this Code are hereby repealed or modified accordingly.

Rule 131.1 The following provisions of PD No. 704 which are inconsistent with this Code, are hereby amended or modified accordingly:

a) Sec. 3 Definition of Terms

- (a) Closed Season
- (b) Commercial fishing
- (c) Electro-fishing
- (d) Fish and fishery/aquatic products
- (e) Fishing Boat
- (f) Fish corrals or baklad
- (g) Fish pen
- (h) Fishing with the use of explosives
- (i) Fishing with the use of obnoxious or poisonous substances
- (j) Municipal waters
- (k) Philippine waters

b) Sec. 10 Fish Landing Points

c) Sec. 16 License, lease and permits

d) Sec. 26 Commercial fishing boat license and other licenses

e) Sec. 18 Permit for importation or exportation of fish and fishery aquatic products

f) Sec. 19 Development of Fish Meal Industry

g) Sec. 20 Persons eligible for Commercial Fishing Boat License

h) Sec. 22 Operation of Radio Communication facilities on board fishing boats

i) Sec. 23 Disposition of Public Lands for Fishponds

j) Sec. 24 Lease of fishponds

- k) Sec. 25 Size of fishponds
- l) Sec. 26 Construction of family size fishponds
- m) Sec. 27 License to operate fishpens
- n) Sec. 28 No obstruction to navigation
- o) Sec. 29 Grant of fishery privileges
- p) Sec. 30 Municipal Concessions and Leases concerning fisheries
- q) Sec. 31 Fishing areas reserved for exclusive use of government
- r) Sec. 32 Fish Refuges and Sanctuaries
- s) Sec. 33 Illegal fishing Dealing in Illegally Caught Fish or Fish/Aquatic products
- t) Sec. 37 Pollution of Waters
- u) Sec. 38 Penalties
- v) Sec. 39 Seizure proceeding
- w) Sec. 40 Persons Authorized to enforce this Decree on Fisheries Rule and Regulations
- y) Sec. 42 Fisheries Loan and Guarantee Fund
- z) Sec. 43 Loans to the Fishery Industry
 - a.1) Sec. 44 Financing Municipal and/or Small-Scale Fishing
 - a.2) Sec. 45 Establishment and Operation of Refrigeration and Cold Storage Plants
 - a.3) Sec. 46 Exemption of fishermen for Operation of the Blue Sunday Law and Eight Hour Labor Law
 - a.4) Sec. 47 Appropriations
 - a.5) Sec. 50 Repealing Clause

Rule 131.2 PD No. 1015 – Amending the 1st paragraph of Sections 17 and 35 of PD No. 704 – The President can ban the operation of commercial fishing gears within a distance of 7 km from the shoreline and operation of trawl within a distance of 7 km. from the shoreline and operation of trawl within 7 km. from the shorelines;

Rule 131.3 PD No. 1058 – Increasing penalties for certain forms of illegal fishing;

Rule 131.3.1 Fishing with the use of explosives: (a) the penalty from twelve (12) years to twenty five (25) years in case of mere possession intended for illegal fishing.

Rule 131.3.2 By imprisonment ranging from twenty (20) years to life imprisonment, if the explosive is actually used.

Rule 131.3.3 If the use of the explosives result in physical injury to any person, the penalty shall be imprisonment for twenty-five (25) years to life imprisonment to death.

Rule 131.3.4 Dealing in illegally caught fish or fishery/aquatic products – imprisonment for five (5) years to ten (10) years.

Rule 131.3.5 Trawl Fishing – imprisonment ranging from six (6) months to six (6) years;

Rule 131.3.6 Jurisdiction of the Military Tribunals for violation of the aforementioned illegal fishing cases.

Rule 131.4 PD No. 977, as amended by EO 967 s.1984 – Creating the Philippine Fish Marketing Authority; EO 967 repealed Sections 2 and 6 of PD No. 977;

Rule 131.5 E.O. No. 116 s. 1987 - Reverted BFAR from a line into a staff Bureau and placed it under the Production Group in the DA with the following functions:

1.

Formulate plans for the proper management, accelerated development and proper utilization of the country's fishery and aquatic resources;

2.

Undertake studies on the economics of the various phases of the fishing industry, which studies shall form the bases for the formulation of policies and programs on fisheries and aquatic resources.

3.

Render technical assistance and advisory services in the proper procurement, construction and operation of the fishing vessels as well as determination and designation of fish landing points for all commercial fishing boats;

4.

For its own sector, recommend plans, programs, policies, rules and regulations to the Secretary of Agriculture and provide technical assistance in the implementation of the same.

Rule 131.6 EO No. 292 s. 1987 – The Administrative Code of 1987 salient features on agencies performing fisheries related functions.

A. Department of Agriculture – Same as No. 5 Title IV Chapter I and IV

Sec. 22 – BAR – Tap farmers, farmers' organizations and research institutions especially SCUs in the conduct of research in DA and its clientele particularly the farmers, fishermen and land workers. (Underline supplied)

Sec. 25 – ATI – No mention of fisheries and fishermen and yet RFTC were placed under it.

Sec. 25 – BAS – Same as A (b) yet fisheries statistics were placed under it.

Rule 131.7 B. DENR – Title XIV

a) Section 1 Declaration of Policy – The State shall ensure the exploration, development, judicious disposition, utilization, management, renewal and conservation of the country's forest, mineral, land, water, fisheries, wildlife and other natural resources x x x x

b) Sec. 4 Powers and Functions

(8) Issue licenses and permits for activities related to the use and development of aquatic resources, treasure hunting, salvaging of sunken vessels and other similar activities;

(10) Promulgate rules and regulations necessary to:

- a. x
- b. xx
- c. xxx

d. Assure conservation and judicious sustainable development of aquatic resources

(14) Promulgate rules, regulations and guidelines on the issuance of licenses, permits, concessions, lease agreements and such privileges concerning the development, exploration and utilization of the country's marine, freshwater, and brackishwater and overall aquatic resources of the country and shall continue to oversee, supervise and police our natural resources; cancel or cause to cancel such privileges upon failure and non compliance of any regulations, order and for all other causes which are in furtherance of the conservation of natural resources and supportive of national interest. (Underline supplied)

Rule 131.8 C. DOST – Title XVIII

Section 10 (4) Philippine Council for Aquatic and Marine Research and Development (PCAMRD) for aquatic and marine resources.

Each of the councils shall be responsible, for its respective sector in the formulation of strategies, policies, plans and programs and projects for science and technology development for programming and allocation of government and; external funds for research and development; for monitoring of research and development projects and for generation of external funds.

Each council shall have a Secretariat which shall be headed by an Executive Director to be appointed by the President upon the recommendation of the DOST Secretary.

(These functions appear to be inconsistent with Sec. 65 (e) and Sec. 85 (a) of RA No. 8550, The Philippine Fisheries Code of 1998)

Rule 131.9 D. EO No. 473 s. 1991 – Establishment of Sea Lanes for Passage of Foreign fishing vessels in Philippine Waters. (Expressly repealed by Sec. 87 of the Fisheries Code);

Rule 131.10 E. Other existing laws; decrees; EOs and rules and regulations or parts thereof which are inconsistent with this Code

1. PD Nos. 1216 and 1698 on Corals

2. LOI No. 1328 – Prohibiting the Operation of Commercial Trawls and purse seiners within a distance of 7 km., from the shorelines of Philippine waters

3. Others

Rule 131.11 F. RA No. 7611 Establishing the Palawan Council for Sustainable Development (PCSD). – It is not covered by the repealing clause and hence the same is neither repealed nor modified by RA No. 8550.

SEC. 132. Separability Clause - If any portion or provision of this Code is declared unconstitutional or invalid, the other portions or provisions hereof, which are not affected thereby, shall continue in full force and effect.

SEC. 133. Effectivity - This Code shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general publication.

Approved,

JOSE DE VENECIA, JR.
Speaker of the House

NEPTALI A. GONZALES
President of the Senate
of Representatives

This Act, which is a consolidation of Senate Bill No. 1708 and House Bill No. 7366 was finally passed by the Senate and the House of Representatives on February 19, 1998.

ROBERTO P. NAZARENO
Secretary General

HEZEL P. GACUTAN
Secretary of the Senate
House of Representatives

Approved: February 25, 1998

FIDEL V. RAMOS
President of the Philippines