

PRIMER

THE FISHERIES CODE OF THE PHILIPPINES

(RA 8550, as amended by RA 10654)



Sardine Run. Photo by Oceana/Ferdinand Edralin

PREFACE



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The Philippines is the “center of the center” of marine biodiversity in the world, according to renowned marine scientists led by Dr. Kent Carpenter. Indeed, as a sea-nation, our country harbors a wealth of marine resources that provide food to about 50 million Filipinos, and long-term livelihood to 1.8 million fisherfolk. The Philippines plays a significant role in feeding the world, as the top 11th exporter of wild-caught fish.

However, despite the perceived abundance, fisheries challenge hits close to home. Municipal fisherfolks are faced with appalling poverty, being the poorest of the poor among the marginalized sectors, due largely to declining fish catch, degraded marine habitats and continued encroachment of commercial fishers in municipal waters. Likewise, our country, one of the most vulnerable to climate change, has to contend with its devastating impacts on fisheries, and further displacement of fishers in coastal communities.

As signatory to various international conventions and commitments including the International Plan of Action (IPAO) to prevent, deter, and eliminate IUU fishing, the government took a significant step to stop IUU fishing and rebuild fishing grounds by enacting Republic Act (RA) 10654, which amended the Philippine Fisheries Code of 1998 or RA 8550. This Primer on the Fisheries Code, as amended, was borne out of Oceana’s advocacy to popularize the knowledge of and mainstream the implementation of our laws to restore the abundance of our fisheries. Our global campaign “Save the Oceans, Feed the World” aims to bring back and increase ocean biodiversity and abundance.

This publication will aid our policymakers, law enforcers, local government units, and citizens in strengthening existing collaboration in working together to prevent, combat and deter illegal, unreported, and unregulated fishing in the Philippines. Of much help are the new empowering provisions relating to administrative adjudication, citizen’s suit and Strategic Lawsuit Against Public Participation (SLAPP). Oceana hopes to encourage more Filipino citizens, our dedicated decision-makers, enforcers and concerned stakeholders, to protect our rich but fragile marine ecosystems. We all have a shared responsibility in saving the oceans to feed the world, for the present and future generations.

We thank all who contributed to making this Primer a reality, with special mention of course to our partners from government and civil society sectors, our Oceana team, Bloomberg Philanthropies and our colleague, Atty. Jennifer Ramos, for this ground-breaking labor of love for our people, our oceans and our planet.

ATTY. GLORIA ESTENZO RAMOS
Vice-President - Oceana Philippines



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FOREWORD



Republic of the Philippines
Department of Agriculture

Bureau of Fisheries and Aquatic Resources

"Illegal fishing must stop. The bounty of our seas and waters is not for us alone. We must leave something for the future generation." – Pres. Rodrigo Roa Duterte

One of the ten basic foundations of a sound agriculture and fisheries program under the administration of President Rodrigo Roa Duterte is 'a relentless campaign for the enforcement of agricultural and fisheries laws, especially on land conversion and illegal fishing.' The Department of Agriculture (DA), under the esteemed leadership of Secretary Emmanuel Piñol, through the Bureau of Fisheries and Aquatic Resources (BFAR), continues its mission to curb illegal, unreported, and unregulated (IUU) fishing.

The publication of this Oceana Primer on the Amended Fisheries Code will surely help in fighting IUU Fishing which is one of the main threats to the nation's food security. This Primer highlights the salient provisions of the Fisheries Code as amended by RA 10654. Oceana has been a strong partner in its advocacy to popularize and mainstream the implementation of fisheries laws. This Primer aims to aid policymaker, law enforcers, local government units, and civil society in performing their mandates to combat and deter illegal, unreported, and unregulated fishing in the Philippines.

In particular, the Primer aims to present the amended Fisheries Code in non-technical language to facilitate implementation and enforcement of its provisions by the readers. The Primer uses a question and answer format and organized into ten (10) chapters with the following sections: Introductory Provisions, Utilization and Management of Fisheries and Aquatic Resources, Fishing Jurisdictions in Municipal Waters, Requirements for Commercial Fishing, New and Amended Offences on the Prohibited Acts, Administrative Adjudication, Provisions on Citizen's Suit and Strategic Lawsuit Against Public Participation (SLAPP). In this way, the reader can easily find the necessary provisions with ease.

With this, DA-BFAR congratulates Oceana for coming up with this Primer.

COMMODORE EDUARDO B GONGONA PCG (Ret)
Undersecretary for Fisheries and concurrent BFAR National Director



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INTRODUCTION



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This Primer provides basic material on Illegal, Unreported and Unregulated (IUU) Fishing in Republic Act 10654, which amended the Fisheries Code of the Philippines (Republic Act 8550). It is a simple guide for fishers, local government units, law enforcers and civil society sectors on IUU fishing, and includes the rules implementing the law, and the salient provisions of the Fisheries Code, as amended

The Primer is generally in a question and answer form, except in the Prohibited Acts section, where prescribed penalties are formatted in tables for easy reference. It strives to present the law in non-technical language to facilitate implementation and enforcement by the enforcers and citizens alike.

Rationale for amendment of the Fisheries Code

Fish is probably next to rice when it comes to satisfying the Filipino diet. The ocean does not only provide a cheap source of food but also a good source of income. IUU fishing threatens effective management and conservation of these resources.

IUU fishing covers a broad range of fishing activities:

1. Illegal fishing covers not only fishing in violations of national laws, such as the Fisheries Code, as amended, but also fishing in a foreign state without permission;

2. Unreported fishing covers fishing activities unreported or misreported to authorities; and

3. Unregulated fishing refers to fishing in areas under regional fishery management organization by vessels without nationality.

Most of these activities were not regulated under the Fisheries Code (Republic Act 8550).

The United Nations' Food and Agriculture Organization (FAO) says IUU fishing can lead to collapse of fishery and ruin efforts in reviving depleted fish population.¹

"According to a study published in March 2016, the average catch of a Filipino municipal fisher is 13.7 kilograms per day. Municipal fishers often catch low-value

¹ <http://www.fao.org/3/a-y3536e/y3536e04.htm#bm04.1>

² <http://journal.frontiersin.org/article/10.3389/fmars.2016.00021/full#B29>



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species such as roundscad and sardines, and its value is hardly enough to pay for a fisher and his family's daily expenses. Furthermore, fishers do not fish every day, with only about 192 fishing days (53%) in a year depending on weather conditions and access to operational expenses.”²

In late 1990s, there were already calls by international organizations and governments to combat IUU fishing. FAO's Committee on Fisheries subsequently crafted the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU). By 2001, the United Nations urged all states to comply with IPOA-IUU by March 2004.

But these were unheeded in the Philippines. Under the Fisheries Code, licensing was merely used for revenue generation and statistics, rather than to control fishing effort and manage fisheries resources. Unregulated and unreported fishing were not even prohibited. With the onset of climate change, warm temperature and ocean acidification, the ocean and aquatic ecosystems become even more vulnerable, and require more protection for these ecosystems to adapt and build resiliency, both for people and the planet.

It took a yellow card warning from the European Union, for possible trade sanctions, for the Philippines to fortify its Fisheries Code through the swift amendments under Republic Act 10654.

Through this new and stronger law, the government puts in place stronger harvest control rules, reportorial requirements, vessel monitoring measures, stiffer penalties for violations, citizens' suit, anti-strategic lawsuit against public participation (SLAPP) and other regulations to sustain fisheries resources and ensure food security.

Salient features of the amendments in combatting illegal, unreported, and unregulated fishing

The following are the salient features of the amendments:

A. Determination of the area's carrying capacity and the number of fishing vessels allowed to operate based on reference points and harvest control rules:

(1) Reference Point: A set of indicators that describes the level of exploitation, status of the fisheries or biological characteristics used as standards for regulatory purpose. Reference points can be target or limit reference point: (a) a limit is the level that should be avoided and such indicates that reaching that level is endangering the fisheries into overexploitation; (b) a target, which should be achieved and maintained and such level indicates that the fisheries is being

exploited at their optimum level;³

(2) Harvest Control Rules: Specific actions, in a form of regulatory measures, that will make sure the target reference point is achieved and the limit reference point is avoided.⁴ Examples of regulatory measures include limitation in license issuance, limits on mesh size, or declaration of closed season.

B. Reportorial requirements: Commercial fishing vessels are required to keep a daily record of fish catch, spoilage, fishing effort, and other information on catch and disposal, which should follow the form of a catch documentation system to be crafted by the Department of Agriculture-Bureau of Fisheries and Aquatic Resources (DA-BFAR). This information must be reported to the DA-BFAR, otherwise the owner, operator or officers of the vessel can be penalized.⁵

C. Monitoring, Control and Surveillance (MCS) System: Municipal, commercial, and distant water fishing vessels are required to comply with vessel monitoring measures to be established by the DA.⁶ These vessels must have vessel monitoring system to track and monitor the position, course and speed of the vessels at any given time for the purpose of managing fishing effort and for traceability.⁷

D. Citizen's suit: A legal remedy integrated in the law to promote the citizen's right to participate in decision-making, enhance civil and political rights, and ensure implementation of the law.⁸

E. Strategic Lawsuit Against Public Participation (SLAPP) measure: Enforcers and the citizens who push for fishery reforms can use the defense of SLAPP in cases filed to purposely harass, chill, or vex them.⁹



F. Additional prohibited acts: A total of 21 prohibited acts were added to the Fisheries Code, such as unregulated and unreported fishing. Existing prohibited acts were also expanded or modified. For example, illegal fishing now covers violations of Regional Fisheries Management Organization resolutions, and laws of other coastal states.¹⁰

G. Harsher penalties for violations: Fines could reach up to P90 million for unreported fishing, for example.¹¹ Under RA 8550, penalties for unauthorized fishing is fine up to P10,000 and confiscation of catch and gears.¹ Under the amendments, the fine could reach up to P10 million,² and the penalty now includes imprisonment of 6 months and confiscation of catch and gears.¹⁴

H. Except administrative actions, all cases involving violations of the Fisheries Code and its amendments are governed by the Rules of Procedure for Environmental Cases.¹⁵

⁵ Section 38, Rule 38.1.

⁶ Section 14.

⁷ Rule 4.1(s).

⁸ Section 138.

⁹ Section 139

¹⁰ Section 4(55).

¹¹ Section 89.

¹² Section 86.

¹³ Rule 86 as amended.

¹⁴ Section 138.

I. Introductory Provisions

What is the scope of application of the Fisheries Code and its amendments?

The law and its amendments are applicable in:



1. All Philippine waters including other waters over which the Philippines has sovereignty and jurisdiction All aquatic and fishery resources whether inland, coastal or offshore
2. All private or public lands devoted to aquaculture
3. 200-nautical mile Exclusive Economic Zone (EEZ) and continental shelf
4. All Philippine flagged fishing vessels operating in areas governed by a Regional Fisheries Management Organization (RFMO), in the high seas, or in waters of other coastal states

When does the law take effect?

The amendments lapsed into law on 27 February 2015, and took effect on 23 March 2015 after publication in a newspaper of general circulation.

Which government body has authority, whether exclusive or concurrent, over violations of the Fisheries Code and its amendments?

1. Regular courts for criminal actions
2. Regular courts, Court of Appeals, the Supreme Court, and other quasi-administrative bodies for citizen's suits and civil actions
3. BFAR Adjudication Committee for administrative actions under the Fisheries Code as amended
4. The Office of the Ombudsman for administrative and criminal liability of public officers



II. Utilization and Management of Fisheries and Aquatic Resources

Who issues permits and sets fees on vessel license and fishery charges?



The Department of Agriculture, (DA) through the Bureau of Fisheries and Aquatic Resources (BFAR), sets the rentals for fishpond areas covered by the Fishpond Lease Agreement (FLA), license fees for Commercial Fishing Vessel Licenses (CFVL), sets fees and other fishery charges and issues the license or permit for fishing gear, fishing accessories and other fishery activities beyond the municipal waters.



The city or municipality sets fees and other fishery charges and issues the license or permit for fishing gear, fishing accessories and other fishery activities within the municipal waters. The license fees of fishery activity in municipal waters are determined in consultation with the Fisheries and Aquatic Resources Management Councils (FARMC).



In protected areas, the Department of Environment and Natural Resources (DENR) secretary sets the fees, while the Protected Area Management Board issues the permit for fishing and other activities within the protected area.

Is there a limit on issuance of licenses and permits?

Yes, the DA-BFAR determines the number of licenses and permits for fishery activities subject to harvest control rules and reference points. Likewise the local government units and special management bodies are granted authority to set the limits in coordination with the BFAR.

Who are given preference in access to fishery resources?

Resource users in the local communities adjacent or nearest to the municipal waters are given

preference in the issuance of licenses and permits in conducting fishery activities. Existing CFVL holders have priority rights in allocation of licenses as long as they have no record of violation on the terms and conditions of their licenses, and, at all times, subject to the carrying capacity of the ocean through the harvest control rules and other forms of fisheries management intervention.

What is a closed season?



A closed season is a period when the taking of specified fishery species by a specified fishing gear or specific fisheries activities is prohibited in a specified area in Philippine waters.

Who can declare a closed season?

1. The Secretary may declare a closed season through public notice in at least two newspapers of general circulation or in public service announcements.
2. The LGU in consultation with the FARMC for conservation purposes. The FARMCs may also recommend closed seasons in municipal waters, fisheries management and other areas reserved for the use of municipal fisherfolk.

¹⁶ Section 6.

¹⁷ Id.

¹⁸ Implementing Rules and Regulations of National

¹⁹ Integrated Protected Areas System Act (RA 7586),

²⁰ Rule 11.1.6.

²¹ RA 7586, Section 20.

Section 7 and Rule 7.1.

²² Section 7 and Rule 7.3

²³ Rule 7.4.

Who has jurisdiction over municipal waters?

The city or municipality has jurisdiction over municipal waters. They are responsible to do the following:

1. Manage, conserve, develop, and protect fishery or aquatic resources within the municipal waters, in consultation with the FARMC
2. Enact a Municipal Fisheries Ordinance, in consultation with the FARMC
3. Enforce all fishery laws, rules and regulations, and fishery ordinances

What areas are included in municipal waters?



Streams, lakes, and inland bodies of water within the municipality; and marine waters included between two 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 15 kilometers from such coastline.

²⁴ Section 4(8).

²⁵ Section 9.

²⁶ Id.

²⁷ Section 16.

How would two municipalities situated on opposite shores determine their municipal waters if there is less than 30 kilometers of marine waters between them?

Where two municipalities are so situated on opposite shores that there is less than thirty kilometers of marine waters between them, the third line will be equally distant from opposite shore of the respective municipalities.

Who will mediate when overlapping boundaries of municipal waters results to resource use conflict?

The concerned city or municipal governments must allow mediation by DA-BFAR in consultation with the National FARMC, local FARMC and stakeholders to resolve the conflict.

What are excluded from municipal waters?

Marine waters, seascapes, fishing reserves, streams, lakes, inland bodies of water and tidal waters within the municipality which are included within the protected areas as defined under the National Integrated Protected Areas System Act (Republic Act No. 7586).

²⁸ Section 4(66).

²⁹ Section 4(66).

³⁰ Rule 16.4.

³¹ Section 4(66).

³² RA 7586, section 11.

³³ RA 7160, section 16.

What is the responsibility of the city or municipality over of waters covered by the National Integrated Protected Areas System?

The municipality or city participates in protected area management through representations in the Protected Area Management Board: One representative from the municipal government and one from the barangay. Moreover, the municipality and city are also enforcers of fisheries and other environmental laws in protected areas within their territory to promote general welfare.

What should a Municipal Fisheries Ordinance cover?

A basic Municipal Fisheries Ordinance (MFO), must delineate the boundaries of the municipal waters, provide the rules and regulations on licensing and permits for other fisheries activities, including the number of licenses and permits that may be issued, in accordance with Harvest Control Rules and reference points that may be adopted for the municipal waters.

Who are allowed to use the municipal waters for fishery activities?

Registered fisherfolks and their organizations can use the municipal waters for all fishery activities.

When is commercial fishing allowed within municipal waters?

The LGU may allow commercial fishing within municipal waters through an ordinance under the following conditions:

1. Only small to medium commercial fishing vessels are allowed to fish in municipal waters;

2. The vessels can only operate within 10.1 to 15 kilometers area from the shoreline;

3. No commercial fishing in depths less than 7 fathoms;

4. Methods and gears used in fishing must not be illegal;

5. Prior consultation, through public hearing, with the Municipal or City FARMC has been conducted;

6. Applicant vessel, including the ship-owner, employer, captain and crew have been certified by the appropriate agency as not having violated this Code, environmental laws and related laws.

However, the LGUs are required to establish Harvest Control Rules within the municipal waters. Consequently, commercial fishing in municipal waters is subject to over-all carrying capacity of the area. When it is exceeded, fishing efforts may be limited or issuance of new licenses may be stopped.

How is priority access among fisherfolks determined?

The Registry of Municipal Fisherfolk is used in identifying priority access among municipal fisherfolks to fish or to engage in fisheries. The FARMC must also submit to the LGU the list of priorities for its consideration.

³⁴ Section 16.1.

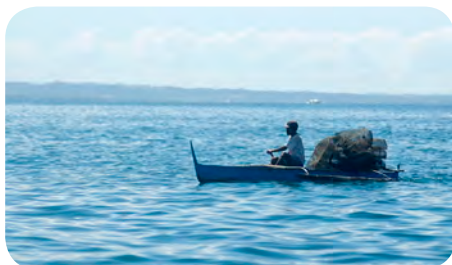
³⁵ Section 18.

³⁶ *Id.*

³⁷ Rule 8.4.

IV. New Requirements for Commercial Fishing

What are the rights and benefits of municipal fisherfolks and fish workers?



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Municipal fisherfolks and fish workers have the following rights and benefits:

1. Resident municipal fisherfolks and their organizations enjoy priority to use municipal and demarcated fishery areas of the municipality.
2. The Department and the LGUs must provide support to municipal fisherfolks through technology and research, credit, production and marketing assistance and other services.
3. Fish workers are entitled to privileges under the Labor Code, Social Security System and other benefits under other laws. Fish workers, on board any fishing vessels engaged in fishing operations, are covered by the Philippine Labor Code.



Encroachment of commercial fishers in Tañon Strait ©OCEANA/Edward Lorenzo

What are the guidelines in the application for Commercial Fishing Vessel License (CVFL)?

Subject to compliance with the provision under the Fisheries Code as amended, including the installation of vessel monitoring measures, the conditions stated in the license, and the rules and regulations that may be promulgated by the DA, the DA-BFAR shall issue to qualified commercial fishing vessel licenses or commercial gear licenses to engage in commercial fishing in fishing areas beyond municipal waters. Skiff boats are exempt from the license requirement.

What are the guidelines in the renewal of Commercial Fishing Vessel License (CVFL)?

Subject to the Harvest Control Rules in place at the time of application, the following guidelines apply to renewal of CFVL:

1. Before the expiration of their CFVL, the licensees must go to the DA-BFAR Regional Office to renew the license and request for inspection of the fishing vessel.
2. Upon receipt of the Inspection Report, the licensees must file the requirements for renewal and pay the license fees.
3. The DA-BFAR Regional Office must evaluate the application for renewal.

³⁸ Rule 19.3.

³⁹ Section 19.

⁴⁰ Section 21.

⁴¹ Section 24.

⁴² Section 25.

⁴³ Rule 30.1.

4. Licensees who have not renewed their CFVL within 6 days prior to its expiration may still apply for renewal.

What are the requirements for distant water fishing?

Philippine registered fishing vessels engaged in distant water fishing must comply with the following requirements:

1. Safety, manning and other requirements of the Philippine Coast Guard, Maritime Industry Authority and other agencies concerned
2. Fishing permit, gear license, and other clearances from the DA
3. Monitoring, control, and surveillance requirements, conservation and management measures, and fishing access conditions of the DA, the RFMO, or other coastal states

Are fish caught through distant water fishing subject to import taxes?

No, fish caught by fishing vessels of Philippine registry are considered as caught in Philippine waters and therefore not subject to import duties and taxes when landed in designated fish landings and fish ports in the Philippines.

What are the reportorial requirements for commercial fishing vessels?

Commercial fishing vessels are required to keep a daily record of fish catch and spoilage;

landing points; quantity and value of fish caught; and fish off-loaded for transshipment, sale or other disposal; which must be certified by the vessel's captain and submitted to the DA-BFAR.

What is a CDS?

This refers to a Catch Documentation System (CDS), which must be followed by commercial fishing vessels in recording fish catch. This is yet to be developed by the DA-BFAR, as of this writing.

Who are exempted from Catch Documentation System?

Subsistence fishers are exempted from Catch Documentation System.

When is transshipment authorization required?

Transshipment by Philippine flagged fishing vessels in waters beyond national jurisdiction requires a transshipment authorization issued by DA-BFAR.

When is transshipment authorization not required?

It is not required in the following instances:

1. In group seining or other net to hatch operation involving the transfer of fish from the fishing net of a catcher vessel directly to the hatch of the carrier vessel;
2. In cases of emergency when there is a need to save lives or property; in which case, a mere notification will suffice.

⁴⁴ Section 12.

⁴⁵ *Id.*

⁴⁶ Section 38.

⁴⁷ Rule 38.1.

V. Prohibited Acts

A. New offenses

1. Engaging in Unauthorized Fishing Activities

- 1.1. Exploiting or breeding fish, fry or fingerlings of fishery products without a license, lease or permit
- 1.2. Constructing and operating fish corrals, fish traps, fish pens and fish cages or fishponds without a license, lease or permit

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P500,000 to P1 million	6 months
Dismantling of the structure at the expense of the offender	Fine twice the amount of the administrative fine
Rehabilitation of the affected area	Dismantling of the structure
Confiscation of stocks	Rehabilitation of the affected area
	Confiscation of stocks

Presumption: Any person, engaging in above-mentioned activities without license or permit, is presumed to be engaged in unauthorized fisheries activity.

The presumption will not apply in the following instances:

- 1. The vessel’s gear is not engaged in fishing or deployed;
- 2. Sea and net trials authorized and supervised by the BFAR Central Office and Regional Offices.

2. Engaging in Distant Water Fishing Without a Permit

- 2.2. Fishing in the high seas, in the territorial seas, archipelagic waters, and Exclusive Economic Zones of other states using a Philippine flagged fishing vessel without a fishing permit from the DA and authorization from the coastal state

⁴⁸ *Id.*
⁴⁹ Rule 42.2.
⁵⁰ *Id.*
⁵¹ Section 86.

2.3. Committing acts in violation of the conditions in the fishing permit

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Confiscation of the catch and gear	6 months
Fine of 5 times the value of the catch or the amounts below, whichever is higher:	Fine twice the amount of the administrative fine
2 to 9 million for small-scale fishing vessel commercial fishing vessel (CFV)	Confiscation of catch and gear
10 to 15 million for medium-scale CFV	
16 to 45 million for large-scale CFV	



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Presumption: Any person in possession of a fishing gear or operating a fishing vessel in the abovementioned areas without a fishing permit from the DA or authorization from the coastal state is presumed to be violating this provision.

Who are liable for the offense?

The owner, operator, and three highest officers of the fishing vessel are liable for the offense.⁵⁶

3. Unreported Fishing⁵⁷

Failure to comply with reportorial requirements such as:

1. Record of Catch and Transmittal submitted any time upon demand by an authorized fisheries officer⁵⁸

2. Report on the Value and Spoilage of fish Caught upon landing at the port

3. Misreporting fishing activities

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Fine of equivalent the value of the catch or the amount below, whichever is higher: P5,000 for municipal fishing or community service, if offender fails the fine P100,000 for small-scale CFV P200,000 for medium-scale CFV P500,000 for large-scale CFV	6 months Fine twice the amount of the administrative fine Confiscation of catch and gear

4. Unreported fishing committed in waters beyond national jurisdiction

5. Misreported fishing activities in Regional Fishing Management Organization

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Fine 5 times the value of the catch or the amount below, whichever is higher: P2 million to P9 million for small-scale CFV P10 million to P15 million for medium-scale CFV P16 million up to P45 million for large-scale CFV	6 months Fine twice the amount of the administrative fine Confiscation of catch and gear

Who are liable for the offenses?

The owner, operator, and three highest officers of fishing vessel are liable for the offense.⁶³



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⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Section 89.

⁵⁸ Rule 38.2.

⁵⁹ Rule 38.3.

⁶⁰ Section 4 (88).

What is a Regional Fishing Management Organization (RFMO)?

It is a multi-lateral organization, which coordinates and establishes conservation and management measures for highly migratory fish stocks, fish stocks that straddle national fisheries management boundaries and other high seas species. The following are some of the existing RFMOs:

- International Commission for Conservation of Atlantic Tunas (ICCAT)
- Western and Central Pacific Fisheries Commission (WCPFC)
- Indian Ocean Tuna Commission (IOTC)

4. Unregulated Fishing

- 4.1. Fisherman or fisherfolk working in an unregistered fishing vessel
- 4.2. Corporation or enterprise operating an unregistered fishing vessel
- 4.3. Vessels operating without nationality but operated by Filipino or Filipino corporations
- 4.4. Philippine flagged vessels operating in areas managed by RFMOs to which the Philippines is not a party to
- 4.5. Philippine flagged vessels operating in areas or fish stocks when there are no applicable conservation and management measures

ADMINISTRATIVE PENALTY

Fine equivalent to value of the catch or the amounts below, whichever is higher:

P5,000 for municipal fishing or community service if offender fails the fine

P100,000 for small-scale CFV

P200,000 for medium-scale CFV

P500,000 for large-scale CFV

CRIMINAL PENALTY

6 months

Fine twice the amount of the administrative fine

Confiscation of catch and gear

The fines are higher if committed in waters beyond national jurisdiction:

ADMINISTRATIVE PENALTY

Fine of equivalent to 5 times of the value of the catch or the amount below, whichever is higher:

P2 million to 9 million for small-scale CFV

P10 million to 15 million for medium-scale CFV

P16 million up to 45 million for large-scale CFV

CRIMINAL PENALTY

6 months

Fine twice the amount of the administrative fine

Confiscation of catch and gear

⁶¹ Section 89.

⁶² Section 4 (88).

⁶³ *Id.*

⁶⁴ Section 4(77).

⁶⁵ Section 90.

Who are liable for administrative penalty?

The owner, operator, and three highest officers of fishing vessel are liable for the administrative penalty

Who are liable for criminal penalty?

The three highest officers of fishing vessel are liable for the criminal penalty.

5. Violation of Harvest Control Rules

5.1. Fishing in violation of harvest control rules

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Confiscation of catch and fishing gear	6 months and 1 day to 6 years
Revocation of license	Fine twice the administrative fine
Fine thrice the value of the catch or P20,000 for municipal fishing, whichever is higher; community service, in case of failure to pay the fine	Confiscation of catch and fishing gear
5 times the value of the catch or P100,000.00, whichever is higher for small-scale CFV	Revocation of license
5 times the value of the catch or P1 million, whichever is higher for medium-scale CFV	
5 times the value of the catch or P5 million, whichever is higher, for large-scale CFV	

What are the Harvest Control Rules for Target Reference Points?

Harvest Control Rules for Target Reference Points have yet to be established by DA-BFAR.

What are the Harvest Control Rules for Limit Reference Points?

When Limit Reference Points are reached, the following Harvest Control Rules are implemented:

1. Limitation on fishing effort-- Fishing effort per fishing must be maintained at existing level, and no additional licenses will be issued

⁷² Section 90.

⁷³ *Id.*

⁷⁴ Section 106.

- 2. Determination of priority access for renewal of licenses-- Licensees of CVFL who have been timely submitting catch reports will enjoy priority access to the fishing ground through the renewal of their licenses; unless they have been convicted for serious violations
- 3. Declaration of closed seasons
- 4. Reduction by attrition-- When resource level is already critical, decommissioned vessels can no longer be replaced
- 5. Other measures

6. Noncompliance with Safety Standards

- 6.1. Failure of the owner and captain of a commercial fishing vessel engaged in fishing to show proof of compliance with the safety standards upon demand by authorities

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Fine of P100,000	1 month and 1 day to 6 months
Suspension or cancellation of permit or license	Fine twice the amount of the administrative fine
Impoundment of the vessel until the safety standard has been complied with	Suspension or cancellation of permit or license
	Impoundment of the vessel until the safety standard has been complied with

Can the apprehended vessel continue fishing?

No, upon apprehension, the fishing vessel will be escorted to the nearest port or landing point and prevented from continuing with the fishing activity.

7. Noncompliance with Good Aquaculture Practice

Failure of the owner or operator to comply with good aquaculture standards and adopt the required remedial measures, despite prior written notice of such violations, and the violations result to:

- a. 50% mortality of the cultured fish stocks of an aquaculture zone comprised of several contiguous farms owned by different individuals
- b. Poisoning of wild fish population

⁷² Section 90.

⁷³ *Id.*

⁷⁴ Section 106.

- c. Widespread contamination of pests and diseases; or
- d. Aquatic pollution

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P10,000 to P100,000 per day until the violation ceases and the fines are paid	3 years Fine twice the amount of the administrative fine

8. Obstruction to Fishery Law Enforcer

8.1. Assaulting, resisting, intimidating, harassing, seriously interfering with or delaying a fishery law enforcement officer, authorized inspector or observer, the deputized fish warden of the LGU, or any lawfully-boarding government officers, in the exercise of their duties

8.2. Any person who does not allow any authorized officer or an observer to exercise any of the legal duties is deemed to be obstructing that officer or person.

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P1 million for fishing vessels operating in Philippine waters; or P2 million for fishing vessels operating beyond Philippine waters	6 months to 2 years Fine twice the amount of the administrative fine Cancellation of license or permit

9. Noncompliance with Fisheries Observer Coverage

9.1. A Philippine distant water fishing vessel sailing without a fisheries observer on board

9.2. A commercial fishing vessels sailing without a fisheries observer

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P500,000 Forfeiture of the catch and gear	1 month and 1 day to 6 months Fine of twice the amount of the administrative fine Confiscation of catch Suspension or cancellation of license

⁷⁵ Rule 8.2.

⁷⁶ Section 108.

⁷⁷ Section 108.

⁷⁸ Section 112.

⁷⁹ Rule 112.1

⁸⁰ Rule 112.1

⁸¹ Section 115.

What is a fisheries observer?



A person, authorized by the government or under a Regional Observer Program of the Regional Fisheries Management Organization, to collect scientific, technical or fishing-related data.

When does this provision take effect?

Effectivity and coverage depends on the size and type of vessel as follows:

VESSEL TONNAGE/ TYPE OF VESSEL	SCHEDULE FROM EFFECTIVITY OF THE IRR	OBSERVER RATE IN PHILIPPINE PESOS
500 GT and above	Within 6 months	1,200.00
300 to 499 GT	After 1 year	1,000.00
200.01 to 299 GT	After 2 years	1,000.00
Domestic purse seine and ring net catcher vessels primarily catching tuna and tuna-like species	During FAD closure period	1,200.00

10. Non-compliance with Port State Measures

OFFENSE	ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Failing to report fish catch report after a foreign fishing vessel is granted entry	Sec. 117 does not directly provide any penalty for this violation, but penalties under unreported fishing may be applied	
Failing to comply with other rules on port state measures promulgated by the DA	P100,000 to P5 million ¹	

⁸² Section 116.

⁸³ Section 4 (35).

⁸⁴ Rule 116.1.

⁸⁵ Section 117.

⁸⁶ Sec. 80.

⁸⁷ Section 117.

What is the requirement for a foreign fishing vessel requesting entry into a Philippine port?

A foreign fishing vessel must provide least 24-hour prior notice before entry into a Philippine port.

What is the consequence of failing to comply with the 24-hour notice rule?

Permission to enter or use of port facilities may be denied, and the vessel may be inspected or impounded.

11. Non-compliance with Conservation and Management Rules

11.1. Failure to comply with conservation and management measures based on rules and regulations promulgated by the DA, RFMO resolutions, and state coastal laws

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Confiscation of catch	6 months
Suspension or cancellation of license or permit	Fine twice the amount of the administrative fine
Fine twice the value of the catch or the amount indicated below, whichever is higher:	Confiscation of the catch
P20,000 for municipal fishing or community service in case of failure to pay the fine	Suspension or cancellation of license
P1 million for small-scale CFV	
P2.5 million for medium-scale CFV	
P5 million for large-scale CFV	

12. Non-compliance with Vessel Monitoring Measures

12.1. Engaging in fishing activity without complying with the vessel monitoring measures promulgated by the DA

⁸⁸ *Id.*

⁸⁹ Section 118.

⁹⁰ Section 119.

12.2. Intentionally tampering with, switching off or disabling the vessel monitoring system

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Confiscation of catch	6 months to 2 years
Suspension or revocation of the license	Fine twice the amount of the administrative fine
Fine twice the value of the catch or the amount indicated below, whichever is higher:	Confiscation of catch
P10,000 for municipal fishing or community service in case of failure to pay the fine;	Suspension or revocation of the license
P250,000.00 for small-scale CFV	
P500,000.00 for medium-scale CFV	
2.5 million for large-scale CFV	
In case of violation committed in waters beyond national jurisdiction, the fine will be equivalent to 5 times the value of the catch or twice the amount indicated above, whichever is higher	



Exception: For vessels operating in Philippine waters, only the catcher vessel is covered by this requirement.

Who are administratively liable?

The fishing vessel owner and master or any other person acting on behalf of the vessel owner are liable for the penalty.

Who are criminally liable?

The master or any other person acting on behalf of the vessel owner is liable for the criminal penalty.

What are Vessel Monitoring Measures (VMM)?

It is a method used to track and monitor the position, course and speed of the vessels at any given time for the purpose of management of fishing effort and fisheries resources and for traceability.



⁹¹ Section 119.

⁹² *Id.*

⁹³ *Id.*

What is Vessel Monitoring System (VMS)?

It is a satellite-based system used to track and monitor the position, course and speed of the vessels at any given time for the purpose of management of fishing effort and fisheries resources and for traceability. An example of this is an Automatic Location Communicator (ALC)



Which vessels are covered by VMM?

It applies to licensed Philippine flagged fishing vessels operating within and outside Philippine waters as follows:

1. All licensed Philippine flagged commercial catcher and carrier vessels operating outside Philippine waters must be installed with a two-way Automatic Location Communicator (ALC).
2. For catcher vessels operating in Philippine waters, the application of VMM is determined in consultation with the stakeholders.

What is an automatic location communicator (ALC)?

ALC or Mobile Tracking-Trans receiver Unit refers to a tracking device approved by the BFAR to be installed on fishing vessels that uses a satellite navigation and communications system for the purpose of transmitting information concerning the Philippine flagged fishing vessel positions, fishing activities and any other vessel activity.

When does the requirement for VMM take effect?

The VMM requirement is implemented for catcher commercial fishing vessels of 30 GT and above operating in Philippine water based on the following schedule:

⁹⁴ Rule 4.1 (r).

⁹⁵ Rule 4.1 (t).

⁹⁶ Rule 119.1.

⁹⁷ Rule 4.1 (b).

⁹⁹ Rule 192.

Vessel tonnage	Schedule of Implementation from Effectivity of IRR
Above 200 GT	Within 6 months
150 to 200 GT	Within 1 year
100 to 149 GT	Within 2 years
50 to 99 GT	Within 3 years
30 to 49 GT	Within 4 years

Within one year from September 2015, the BFAR will determine the appropriate technology for VMM and the schedule to cover vessels excluded in the above schedule.

13. Constructing, Importing, or Converting Fishing Vessels or Gear Without Permit

13.1. Constructing or importing fishing vessels or gears or converting other vessels into fishing vessels without permit from the DA

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P50,000 for small-scale CFV	1 month and 1 day to 6 months
P500,000 for medium-scale CFV	Fine twice the amount of the administrative fine
P2.5 million for large-scale CFV	

14. Unlicensed Gear

OFFENSE	ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Using a fishing gear or method for commercial fishing without license	P200,000 to P500,000 per gear	P400,000 to P1 million

⁹⁹ *Id.*
¹⁰⁰ Section 120.
¹⁰¹ Section 121.

15. Falsifying, Concealing, or Tampering with Vessel Markings, Identity or Registration

- 15.1. Falsifying, concealing vessel identity or lack of registration
- 15.2. Tampering with the vessel markings, identity or registration

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Confiscation of catch	2 to 6 years
Suspension or cancellation of license	Fine twice the amount of the administrative fine;
P10,000 for municipal fishing or community service in case of failure to pay the fine	Confiscation of catch
P100,000 for small-scale CFV	Suspension or cancellation of license
P1 million for medium-scale CFV	
5 million for large-scale CFV	

16. Concealing, Tampering, or Disposing of Evidence

- 16.1. Concealing, tampering or disposing of evidence relating to an investigation of a violation

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Suspension or cancellation of license	5 to 10 years
P10,000. for municipal fishing or community service in case of failure to pay the fine	Fine twice the administrative fine
P100,000 for small-scale CFV	Suspension or cancellation of the license
P1 million for medium-scale CFV	
P5 million for large-scale CFV	
Twice amounts if violation is by a distant	

¹⁰² Section 122
¹⁰³ Section 123
¹⁰⁴ Section 124
¹⁰⁵ Section 125

17. Non-compliance with Requirements on Introduction of Foreign or Exotic Aquatic Species

17.1. Importing, introducing, or breeding, foreign or exotic aquatic species without conducting risk analysis and without prior approval of the DA

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P200,000 to P6 million	6 to 12 years
Confiscation and destruction of the foreign or exotic species	P400,000 to P12 million
Loss of income or damage to the habitat, if the species become invasive and result to predation of native aquatic biota	Confiscation of foreign or exotic species
Costs of containment, eradication or restoration	Costs for containment, eradication or restoration

18. Failure to Comply with Standards and other Trade-related Measures

18.1 Failure to comply with standards for weights, volume, quality and other requirements for all fishery transactions and trade and trade-related measures

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P50,000 to P2 million	6 months to 2 years
Confiscation of the shipment or fishery products	P100,000 to P4 million
Suspension or revocation of registration or license	Confiscation of the shipment or fishery products
	Suspension or revocation of registration or license

¹⁰² Section 122.

¹⁰³ Section 123.

¹⁰⁴ Section 124.

¹⁰⁵ Section 125.

19. Possessing or Dealing in Illegally Caught Fish

19.1. Shipping, selling, importing, exporting, or possessing or disposing any illegally caught fish or species Presumptions:

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P50,000 to P2 million	6 months to 2 years
Confiscation of the shipment or fishery products	P100,000 to P4 million
Suspension or revocation of registration or license	Confiscation of the shipment or fishery products
	Suspension or revocation of registration or license

Presumptions:

1. The discovery of any fish or species caught with the use of explosives or noxious or poisonous substances constitutes a presumption that the possessor, seller, fish dealer, transporter, importer, or exporter knows that the fish or species was illegally caught.
2. The DA-BFAR conducts a mandatory training on detection of fish caught through the use of explosives. Therefore fish sellers, fish dealers, transporters, importers, or exporters are presumed to know how to detect fish caught through the use of explosives in the following instances:
 - a. Completion of the training by the offender;
 - b. Failure to complete the training for an unjustifiable cause; or
 - c. Failure to attend despite due notice.



How are these presumptions rebutted?

The fish sellers, dealers, transporters, importers, or exporters must pinpoint the source of the fish.

¹⁰⁹ Rule 126.2.

¹¹⁰ Section 127.

¹¹¹ Section 155.

20. Unauthorized Disclosure of Sensitive Technical Information

ADMINISTRATIVE PENALTY	ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Unauthorized disclosure of data from the vessel monitoring system or vessel monitoring measure and other related data	None	6 months and 1 day to 6 years
Unauthorized disclosure of trade, industrial and policy information of fisherfolks, fisheries owners and operators, entrepreneurs, manufacturers, and researchers, when the disclosure injures the competitiveness of domestic fisheries		Removal from office and forfeiture of all retirement benefits

Exceptions:

The following instances are considered authorized disclosures:

1. When the disclosure is officially requested by a government agency to be used as evidence for the prosecution of offenses;
2. When it is requested by the flag, coastal or port state for its own investigation or traceability; and
3. Other similar circumstances.

21. Violation of Administrative Orders or Regulation

OFFENSE	ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Violating administrative orders or regulations promulgated by the DA	P100,000 to P5 million	None

¹¹² Rule 127.1.

¹¹³ Section 128.

¹¹⁴ Section 86.

B. Amended offenses

1. Unauthorized Fishing

- 1.1. Capturing fish, fry or fingerlings of any fishery species or products without license or permit from the Department or LGU
- 1.2. Commercial fishing vessel fishing in municipal waters, except in cases allowed under a municipal fishery ordinance and other requirements of the Fisheries Code, as amended

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Confiscation of catch and gear	6 months
Fine 5 times the value of the catch or the amount below whichever is higher:	Confiscation of catch and gear
P50,000 to P100,000 for small-scale CFV	Fine twice the amount of the administrative fine
P150,000 to P500,000 for medium-scale CFV	
P1 to P5 million for large-scale CFV	

- 1.3. Engaging in commercial fishing activity in municipal waters by any person not listed in the registry of municipal fisherfolk

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Fine twice the value of the catch or P5,000 whichever is higher	None
Confiscation of catch and gear	
Community service in case of failure to pay the fine	

Who are liable for these offenses?

The boat captain, three highest officers of the commercial fishing vessel, and the owner and operator are liable for these offenses.

Presumption: Persons are presumed to be engaged in unauthorized fishing if they possess a fishing gear or operating a fishing vessel in a fishing area where they have no license or permit.

Is a license required when fishing for food?

No, a fishing license or permit is not required when fishing for daily food sustenance or for leisure, and not for commercial or livelihood purposes.

2. Poaching in Philippine Waters

OFFENSE	ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
A foreign person, corporation or entity fishing or operating any fishing vessel in Philippine waters	\$600,000 to \$1 million or its equivalent in Peso	\$1.2 million or its equivalent in Peso Confiscation of catch,

Penalties if offender is caught within internal waters:

OFFENSE	ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Apprehended for the first time	\$600,000 to \$1 million or its equivalent in Peso	\$1.2 million or its equivalent in Peso Confiscation of catch, fishing equipment and fishing vessel 6 months and 1 day to 2 years and 2 months
Apprehended for the second time	\$600,000 to \$1 million or its equivalent in Peso	3 years \$2.4 million or its equivalent in Peso

Can the foreign offender be deported without paying fines?

No, the foreign offender can only be deported after payment of fines and service of sentence.

Presumptions:

A foreign fishing vessel (FFV) in Philippine waters is presumed to be poaching under the following circumstances:

1. Navigating with its fishing gear deployed or not stowed;
2. Navigating with an irregular track or route;
3. Navigating through Philippine

territorial waters without permission from the appropriate Philippine authority;

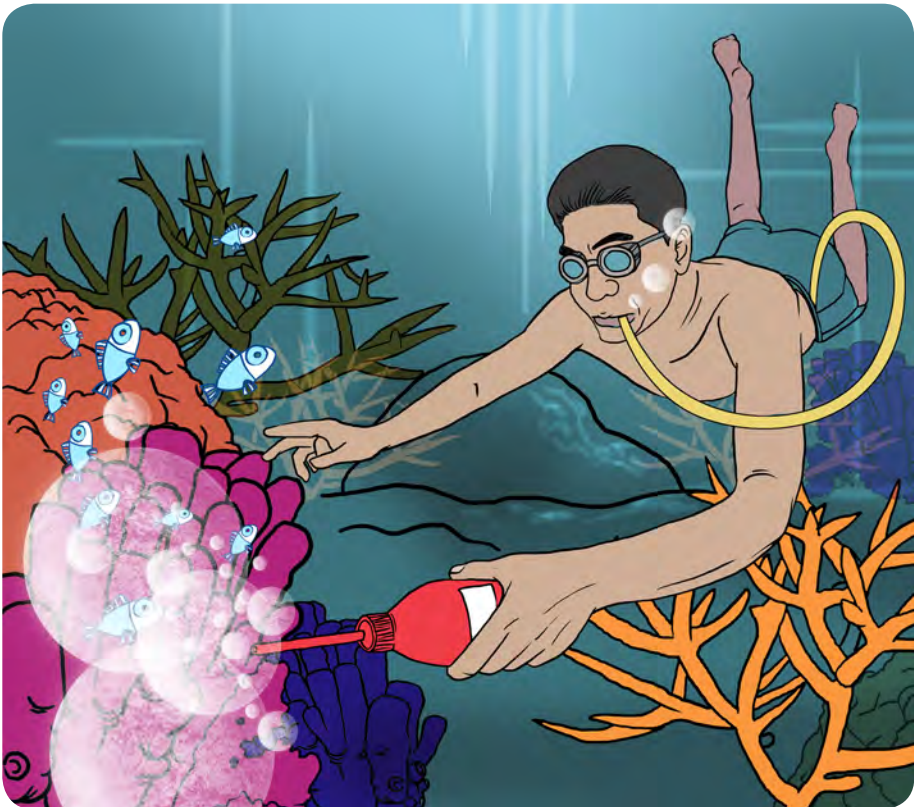
4. Navigating in a manner that does not qualify as innocent passage;
5. Navigating in identified fishing grounds;
6. Navigating without flying its national flag;
7. Lying-to or anchoring without any valid reasons or circumstances that may indicate the existence of force majeure or distress;
8. Lying-to, anchoring near to or within known fishing grounds or marine protected areas;
9. When it is found to contain freshly caught fish, corals or mollusks, on deck or in storage.

Exceptions:

The following are exceptions to the presumption of poaching:

1. Exercise of right of innocent passage;
2. Passage for purposes of dry docking, servicing, or unloading of catch by foreign flagged catcher vessels, provided, the 24-hour prior entry notification has been complied with;
3. In case of authorized marine scientific research using an FFV;
4. An FFV taking shelter or having been drifted in Philippine waters as a result of force majeure or distress;
5. An FFV entering Philippine waters for reason of rendering assistance to persons, ships or aircraft in danger or distress;
6. In case of duly organized and established game or leisure fishing conducted by foreign nationals.

3. Fishing Through Explosives, Poisonous Substance, or Electricity



3.1. Fishing using explosives, noxious or poisonous substance



ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Confiscation of the catch, explosives, gear, and poisonous substances	5 to 10 years
Fine equivalent to 5 times the value of the catch or mount below whichever is higher:	Confiscation of the catch, explosives, gear, and poisonous substances
P30,000 for municipal fishing	Twice the amount of the administrative fine
P300,000 for small-scale CFV	
P1.5 million for medium-scale CFV	
P3 milion for large-scale CFV	

3.2. Actual use of electrofishing device

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
None	6 months
	P5,000

3.3. Possession of explosives, noxious or poisonous substance for illegal fishing

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Confiscation of catch, explosives, gear, and poisonous substances	6 months to 2 years
Fine 5 times the value of the catch or amount below, whichever is higher:	Fine twice the amount of the administrative fine
P10,000 for municipal fishing	
P100,000 for small-scale CFV	
P500,000 for medium-scale CFV	
P1 million for large-scale CFV	

Presumptions:

1. The discovery of dynamite, other explosives or noxious or poisonous substances, or device for electrofishing in any fishing vessel or in the possession of any fisherfolk, operator, or fish worker constitutes a presumption that any of these devices was used for fishing.
2. The discovery in any fishing vessel of fish caught or killed with the use of explosives, noxious or poisonous substances, or by electricity constitutes a presumption that the fisherfolk, operator, boat official or fish worker is these for fishing.

Based on these presumptions, the enforcement officer may file a case for actual use of explosives or noxious or poisonous substances in fishing, or device for electrofishing, rather than mere possession.

4. Use of Fine Mesh Net

- 4.1. Fishing using nets with mesh size of less than 3 cm. measured between 2 opposite knots of a full mesh when stretched or as determined by the DA

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Confiscation of catch and gear	6 months to 2 years
Fine 3 times the value of the catch or amount below, whichever is higher:	Fine twice the administrative fine
P20,000 for municipal fishing or community service, if offender fails to pay the fine	Confiscation of catch and gear
P50,000 for small-scale CFV	
P100,000 for medium-scale CFV	
P200,000 for large-scale CFV	

Who are liable for these offenses?

Owner, operator, captain or master fisherman, or municipal fisherfolk are liable for these offenses.

Presumption: The discovery of a fine mesh net in a fishing vessel constitutes a presumption that the person or fishing vessel is engaged in fishing with the use of fine mesh net.

When are fine mesh nets allowed for fishing?

Fishing using fine mesh nets are allowed only in the following circumstances:

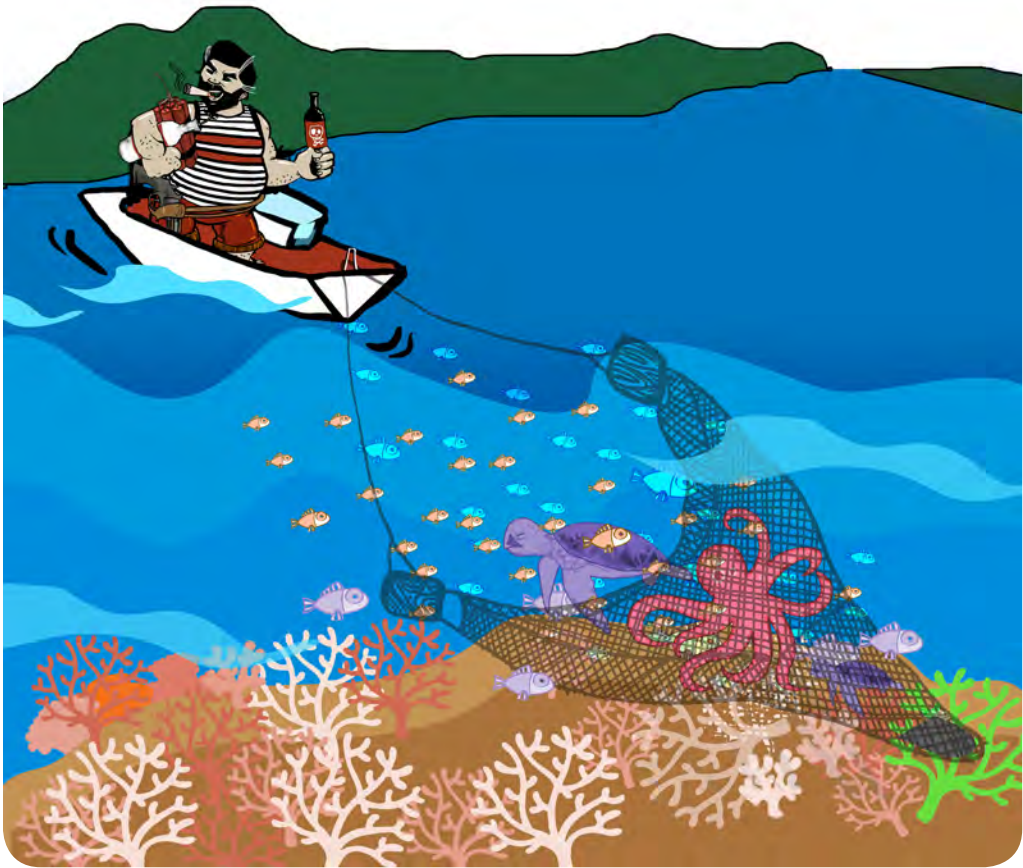
1. If the net is used to catch:
 - a. Padas, bangus fry, sugpo fry, banak fry, glass eels and elvers and such other immature species for culture purposes;
 - b. Aquarium or ornamental animals; and
 - c. Other species already mature such as, but not limited to, alamang, tabios, sinarapan, dilis, and snails.
2. In cases of ring nets, purse seines for sardines, mackerels and scads, and bagnets, where the mesh size is 1.9 centimeters (17 knots), measured between two opposite knots of a full mesh when stretched.

5. Fishing in Overexploited Fishery Management Areas

5.1. Fishing in fishery management areas declared as overexploited

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Confiscation of catch and fishing gears	6 months and 1 day to 6 years
Fine equivalent to the value below:	P500,000 to P5 million
3 times the value of the catch or P20,000, whichever is higher or community service, if offender fails to pay the fine	Confiscation of the catch and fishing equipment
5 times the value of the catch or P100,000, whichever is higher for small-scale CFV	Cancellation of fishing permit or license
5 times the value of the catch or P300,000, whichever is higher for medium-scale CFV	
5 times the value of the catch or P500,000, whichever is higher for large-scale CFV	

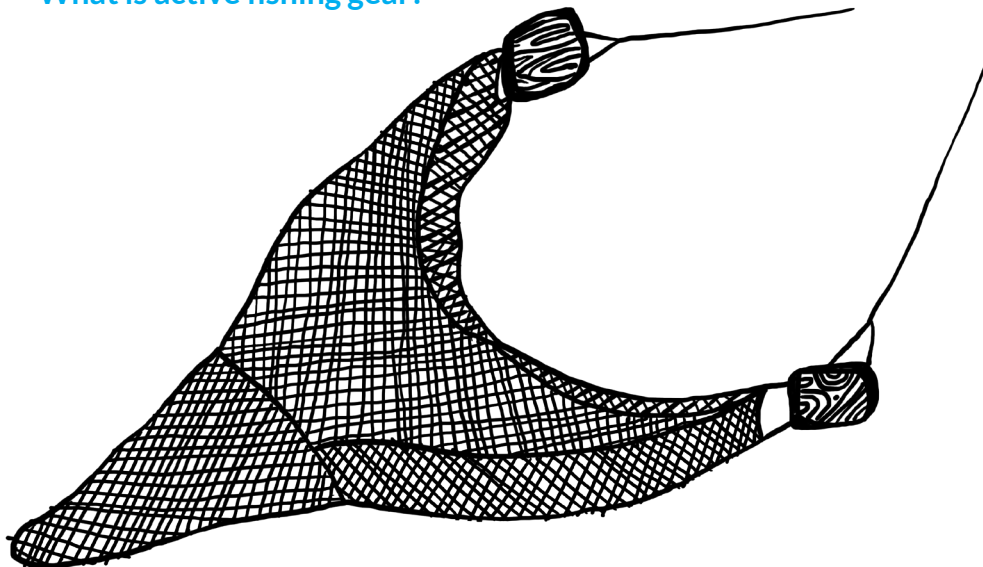
6. Use of Active Gear in Municipal Waters



6.1. Fishing in municipal waters, bays, and fishery management areas using active fishing gears

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Confiscation of the catch and fishing gears	2 to 6 years
Fine 3 times the value of the catch or the value indicated below, whichever is higher:	Fine equivalent to twice the administrative fine
P20,000 for municipal fishing or community service, if offender fails the fine	Confiscation and forfeiture of catch and gear
P50,000 for small-scale CFV	
P100,000 for medium-scale CFV	
P500,000 for large-scale CFV	

What is active fishing gear?



Active fishing gear is a fishing device characterized by the pursuit of the target species by towing, pushing the gears, surrounding, covering, dredging, and scaring the target species to impoundments; such as, trawl, purse seines, Danish seines, paaling and drift gill net.

What types of gears are not covered by this prohibition?

The following gears are not covered by this prohibition:

1. Gill nets, other than bottom-set gill nets, not more than 500 meters in length per boat used by registered municipal fisherfolk;
2. Sudsud or push net used to catch alamang and dilis, which is operated by a registered municipal fisherfolk or fisherfolk cooperative, either manually or by the use of a registered and licensed municipal motorized boat with single piston engine of not more than 16 horsepower, during the approved fishing season for the species, and covered by a management plan duly approved by the LGU;
3. Active gears such as purse seine or pangulong, ring net or taksay and such other gears that do not touch the sea bottom, used by small and medium commercial fishing vessels authorized by the LGU.

Who are liable for this offense?

The owner, operator, boat captain and master fisherman of the vessel, or the chief executive officer in a corporation, or the managing partner in a partnership are liable for this offense.

7. Coral Exploitation and Exportation



7.1. Gathering, possessing, commercially transporting, selling or exporting ordinary, semi-precious and precious corals, whether raw or in processed form

7.2. Committing any activity that damage coral reefs

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Fine 8 times the value of the corals or P500,000 to P10 million, whichever is higher	10 to 20 years
Forfeiture of the corals	Fine equivalent to twice the administrative fine
Compensation for the restoration of the damaged coral reefs	Forfeiture of the subject corals
	Compensation for the restoration of the damaged coral reefs

Exception:

Coral exploitation and exportation is lawful if done for scientific or research purposes.

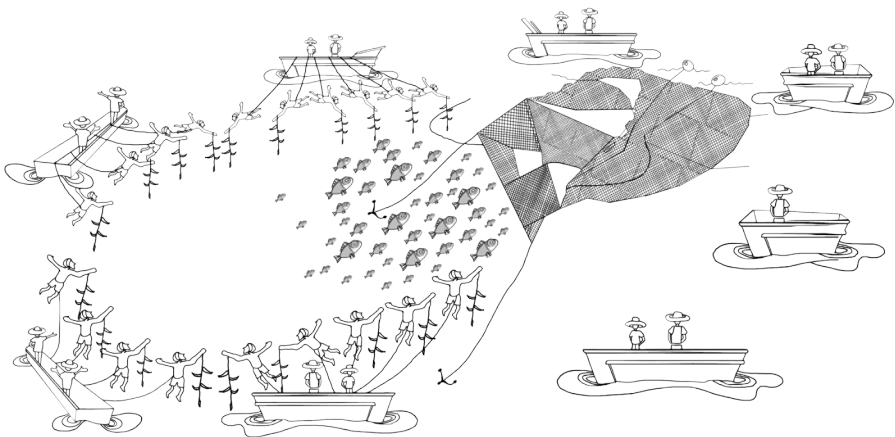
Who are administratively liable?

The owner or operator of the fishing vessel, boat captain, master fisherman, and recruiter or organizer of fish workers are administratively liable.

Who are criminally liable?

Boat captain, master fisherman, and recruiter or organizer of fish workers are criminally liable.

8. Muro-ami and Other Destructive Methods and Gear



8.1. Fishing with gear or method that destroys coral reefs, seagrass beds, and other fishery marine life habitat

8.2. Fishing using muro ami and any of its variations, and similar gears and methods that require diving and pounding the coral reefs and other habitats to catch fish and other fishery species

8.3. Fishing using Kayakas, Danish seine, and modified Danish Seine

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
<p>Fine equivalent to 5 times the value of the fish caught or P2 million, whichever is higher</p> <p>Confiscation of catch and gear</p> <p>Fishworkers who serve as pounders are penalized with a fine P20,000 or community service in case of failure to pay the fine</p>	<p>2 to 10 years</p> <p>Fine twice the amount of the administrative fine</p>

8.4. Gathering, possessing, commercially transporting, selling or exporting coral sand, coral fragments, coral rocks, silica, and any other substances, which make up any marine habitat.

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P5 million or 5 times the value of the coral rocks, sand, or silica, whichever is higher	2 to 10 years
Confiscation of the substance	Fine twice the administrative fine
	Confiscation of catch or substances and equipment or gear

Who are administratively liable?

The owner, operator, boat captain, master fisherman, and recruiter or organizer of fishworkers are liable for the administrative penalties.

Who are criminally liable?

The boat captain, master fisherman, and recruiter or organizer of fish workers are are liable for the criminal penalties.

9. Illegal Use of Superlights or Fishing Light Attractor

- 9.1. Fishing with the use of superlight in municipal waters
- 9.2. Using fishing light attractor or using candlelight power or intensity beyond the standards set by the DA for fishing in municipal waters,
- 9.3. Violation of the rules for fishing with the use of superlight or fishing light attractor outside municipal waters

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P20,000.00 per superlight or fishing light attractor	P20,000.00 per superlight or fishing light attractor
Confiscation of catch, superlight or fishing light attractor and gears	Confiscation of catch, superlight or fishing light attractor and gears
Community service in lieu of fine, if the offender is a municipal fisherfolk	Community service in lieu of fine, if the offender is a municipal fisherfolk

What is a superlight?



Superlights, also called magic lights, refers to 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.

10. Conversion of Mangroves

10.1. Converting mangroves into fishponds or for any other purpose

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Fine equivalent to the ecological value of a hectare of mangrove; or	6 months and 1 day to 12 years
P10 million per hectare, whichever is higher	P80,000 base fine
Restore or pay for the restoration of the damaged area	Fine equivalent to the administrative penalties
	Restore or pay for the restoration of the damaged area

Exceptions:

The Implementing Rules of RA 10654 provides exemptions:

- 1. Areas covered by Fishpond Lease Agreements (FLA), Aquasilviculture Stewardship Contract (ASC) or Gratuitous Permit and other tenurial instruments;

- 2. Private property not classified as mangrove forest; and
- 3. Development activities duly covered and approved by competent authorities.

However, these exceptions may be questionable as the law itself does not provide any exceptions.

11. Fishing During Closed Season

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
3 times the value of the catch or P20,000 for municipal fishing, whichever is higher; community service, if offender fails to pay the fine	6 months and 1 day to 6 years
5 times the value of the catch or P100,000, whichever is higher for small-scale CFV	Confiscation of catch and gear,
5 times the value of catch or P300,000, whichever is higher for medium-scale CFV	Fine twice the amount of the administrative fine
5 times the value of catch or P500,000, whichever is higher for large-scale CFV	Cancellation of license or permit

What is a closed season?



It is the period during which the taking of specified fishery species by a specified fishing gear is prohibited in a specified area.

12. Fishing in Marine Protected Areas, Reserves, and Sanctuaries

OFFENSE	ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Fishing in marine protected areas, fishery reserves, refuge and sanctuaries declared by the DA or local government units	P20,000 for municipal fishing; community service, if offender fails to pay the fine P200,000 for small-scale CFV P600,000 for medium-scale CFV P1 million for large-scale CFV	2 to 6 years Fine twice the amount of the administrative fine Confiscation of catch and gear Cancellation of license or permit

Does marine protected areas mentioned in the law include those covered by the National Integrated Protected Area System (NIPAS?) under RA 7586



Yes, it includes all sea areas declared as protected areas by law or by administrative regulation.



13. Fishing or Taking of Rare, Threatened or Endangered Species

13.1. Fishing or gathering, selling, purchasing, possessing, transporting, exporting, forwarding or shipping out aquatic species listed in:

- i. Appendix I of the Convention on the International Trade in Endangered Species of Wild Flora and Fauna (CITES); or
- ii. Those categorized by the International Union for Conservation of Nature and Natural Resources (IUCN) as threatened and determined by the DA as such.

ADMINISTRATIVE PENALTY

Fine 5 times the value of the species or P500,000 to P5 million, whichever is higher

Forfeiture of the species

CRIMINAL PENALTY

12 years and 1 day to 20 years

Fine twice the administrative fine

Forfeiture of the species
Cancellation of fishing permit

13.2. Fishing or gathering, selling, purchasing, possessing, transporting, exporting or shipping out aquatic species listed in CITES Appendices II and III, if scientific assessments show that population of the species in the wild cannot remain viable under pressure of collection and trade

ADMINISTRATIVE PENALTY

Fine 3 times the value of the species or P300,000 to P3 million, whichever is higher

Forfeiture of the species

CRIMINAL PENALTY

5 to 8 years

Fine twice the administrative fine
Forfeiture of the species

13.3. Taking, possessing, transporting, or exporting, forwarding or shipping out captive-bred species that have been transplanted to the wild

ADMINISTRATIVE PENALTY

Fine 3 times the value of the species or P300,000 to P3 million, whichever is higher

Forfeiture of the species

CRIMINAL PENALTY

5 to 8 years

Fine 3 times the value of the species or P3 million, whichever is higher
Forfeiture of the species

Exception: Taking or fishing of aquatic species listed in CITES Appendices II and III for scientific research, or conservation breeding simultaneous with commercial breeding may be allowed.

Does the prohibition apply to parts and derivatives from rare, threatened or endangered species?

Yes, the prohibition applies to parts and derivatives from rare, threatened or endangered species.

14. Capture of Sabalo and Other Breeders or Spawners

OFFENSE	ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Catching or possessing mature milkfish or sabalo and other breeders or spawners of other fishery species	Fine 5 times the value of the sabalo, other breeders, or spawners; or P500,000.00, whichever is higher Forfeiture of catch and gear	6 months and 1 day to 8 years Fine twice the amount of the administrative fine Forfeiture of catch and fishing equipment used Suspension or revocation of license

Exception:

Catching of sabalo and other breeders or spawners for local breeding purposes or scientific or research purposes may be allowed subject to DA guidelines.

15. Exportation of Breeders, Spawners, Eggs or Fry

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Fine 3 times the value of the breeders, spawners, eggs, or fry P100,000 to P500,000, whichever is higher Confiscation of breeders, spawners, eggs or fry Suspension or revocation of license for commercial fishing or registration as exporter	8 to 10 years Confiscation of breeders, spawners, eggs or fry Fine twice the amount of the administrative fine Revocation of the fishing license, or suspension or revocation of registration as exporter

Presumption: Connivance or conspiracy between the company and the shipper is presumed when the shipping or forwarding company, from whose possession the breeders, spawners, eggs, or fry are discovered or seized, fails to cooperate in the investigation.

When is exporting hatchery-bred or captive-bred breeders, spawners, eggs or fry allowed?

The DA-BFAR may allow the exportation of hatchery-bred or captive-bred spawners, eggs or fry if the exporter complies with the following requirements:

1. Registration of the hatchery or captive breeding facility;
2. Registration of exporter with DA-BFAR;
3. Issuance of health certificate as may be required by the importing country;
4. Issuance of export commodity clearance; and
5. Clearance of the outgoing commodity at the border inspection.

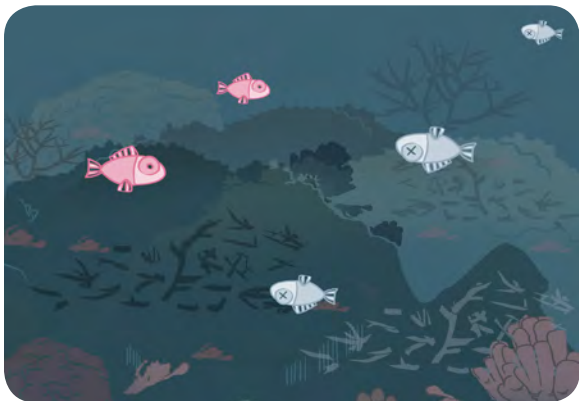
ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Fine 5 times the value of the species or P300,000 to P500,000, whichever is higher	8 years
Forfeiture or destruction of the species	Fine twice the administrative fine
	Forfeiture or destruction of the species
	Offenders are banned from being members or stockholders of companies engaged in fisheries

16. Importation or Exportation of Fish or Fishery Species

- 16.1. Any importation or exportation of fish or fishery species identified by DA-BFAR that are not allowed for export or importation

Presumption: Connivance or conspiracy between the shipping company and the shipper is presumed when the shipping company, from whose possession the fish or fishery species are discovered or seized, fails to cooperate in the investigation.

17. Aquatic Pollution



- 17.1. The introduction by human or machine, directly or indirectly, of substances or energy to the aquatic environment which:
- i. Results or is likely to result in such deleterious effects as to harm living and non-living aquatic resources
 - ii. Pose potential or real hazard to human health
 - iii. Hindrance to aquatic activities such as fishing and navigation
- 17.2. Dumping or disposal of waste and other marine litters
- 17.3. Discharge of petroleum or carbon-rich materials or substances, and other, radioactive, harmful liquid, gaseous or solid substances, from any water, land or air transport or other human-made structure
- 17.4. Deforestation
- 17.5. Unsound agricultural practices such as the use of banned chemicals and excessive use of chemicals
- 17.6. Intensive use of artificial fish feed
- 17.7. Wetland conversion

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P300,000 to P500,000;	6 years and 1 day to 12 years
Additional fine of P15,000 per day until the violation ceases and the fines are paid	Fine twice the amount of the administrative fine
Cease and desist order	Additional fine of P15,000 per day until the violation ceases and the fines are paid
Closure or suspension of the construction or facility	Cease and desist order
	Closure or suspension of the construction or facility
	Cessation of operations
	Disconnection of water supply

18. Noncompliance with Annual Report on Fishponds and Fish Cages

OFFENSE	ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Failing to submit an annual report on the type of species and volume of production to the DA	P5,000 per unreported hectare Cancellation of FLA,	Twice the amount of the administrative fine

Who are liable for this offense?

Owners and operators of fishponds, fish pens, and fish cages are liable for this offense.

19. Gathering and Marketing of Shellfishes or Other Aquatic Species

19.1. Gathering, taking, selling, transferring, possessing, commercially transporting, exporting, forwarding or shipping out any sexually mature shellfish or other aquatic species identified by the DA

19.2. Gathering or disposing those below the minimum size, or above the maximum quantities prescribed for the species.

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
Fine equivalent to the value of the species or P50,000, whichever is higher Confiscation of the species Cancellation of permit or license	1 month and one 1 day to 6 months Fine twice the amount of the administrative fine Cancellation of the permit or license

20. Obstruction to Navigation or Flow or Ebb of Tide in Any Stream, River, Lake or Bay

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P200,000 Dismantling of the obstruction, fish corrals, fish pens or fish cages at the expense of the offender	1 month and one 1 day to 6 months Fine twice the amount of the administrative fine Confiscation of stocks Dismantling of the obstruction, fish corrals, fish pens or fish cages at the expense of the violator

21. Employing Unlicensed Fisherfolk, Fishworker or Crew

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P4,000 for each unlicensed fisherfolk or crew	Fine with twice the amount of the administrative fine
Suspension or revocation of license for commercial fishing	Suspension or cancellation of license

Penalty when the owner or operator is engaged in distant water fishing :

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P40,000 for each unlicensed fisherfolk, fish worker or crew	Fine with twice the amount of the administrative fine
Suspension or cancellation of license	Suspension or cancellation of license

Who are liable for the offense?

The owner or operator of a commercial fishing or Philippine flagged fishing vessels are liable for these offenses.

Who are required to have a fisherman’s license?

All crew on board a commercial fishing vessel are required to have a fisherman’s license, except the following:

- 1. Captain or Master;
- 2. Cook, unless he is also involved in fishing;
- 3. Crew declared in the manifest, unless he is also involved in fishing; and
- 4. Non-crew passengers declared in the manifest.

ADMINISTRATIVE PENALTY	CRIMINAL PENALTY
P150,000 to P500,000	7 to 12 years
Dismantling of the obstruction at the expense of the offender	Fine of twice the amount of the administrative fine
Suspension or revocation of the permit or license	Dismantling of the obstruction at the expense of the offender
	Suspension or revocation of the permit or license

VI. Administrative Adjudication

22. Obstruction of Defined Migration Paths of Migratory Fishery Species

Under the amended Code, the DA-BFAR is empowered to impose administrative fines and penalties. The amendments and rules creates an adjudication committee and provides the rules of procedure.

What is the composition of adjudication committee?

The Adjudication Committee is composed of the DA-BFAR Director as Chairperson, and the following four other members to be designated by the Secretary:

1. DA-BFAR Assistant Director for Technical Services;
2. DA-BFAR Assistant Director for Administrative Services;
3. Representative of the municipal fisherfolk sector in the NFARMC; and Representative of the commercial fishing sector in the NFARMC.

What is the Rules of Procedure for administrative adjudication?

The rules are still being drafted as of the time of this publication.

What is administrative settlement?

An offer to settle before the criminal action is filed in court or after the filing of the answer or responsive pleading.

Who can issue a cease and desist order?

The DA-BFAR Director and the Regional Directors are deputized to issue Cease and Desist Orders upon violators of fishery laws, rules and regulations, subject to the guidelines issued by the Adjudication Committee.

Who can issue a summary ejectment order?

The DA-BFAR Director and the Regional Directors are deputized to issue Summary Ejectment Orders to implement the decision of the Adjudication Committee in FLA-related cases or other cases involving violations of the Fisheries Code, subject to the guidelines promulgated by the Adjudication Committee.

Who can issue a Notice of Violation?

The Director of the BFAR or the duly authorized representative, may issue notice of violation and order the confiscation of any fish, fishery species or aquatic resources illegally caught or gathered, and all equipment, paraphernalia and gears in favor of the DA or academic institutions.

When should a Notice of Violation be issued?

The notice should be issued immediately upon arrest of the offender. The NOV is issued to the offender, owner on record of the vessel or gear.

What is the effect of the issuance of a Notice of Violation?

A Notice of Violation informs the apprehended persons of the offense committed, the imposable penalties for the violation, the fact that they will be charged administratively before the Adjudication Committee, and that they may offer a settlement. Upon acceptance of an offer to settle, the offender will not be administratively charged before the Adjudication Committee.



Are there additional sanctions for serious violations?

Yes, for serious violations, the Adjudication Committee may impose the following additional sanctions to the administrative penalties imposed for serious violations:

1. Confiscation of fishing gear;
2. Impoundment of fishing vessel;
3. Temporary suspension or permanent revocation of license or permit;
4. Temporary or permanent ban from the availing duty and tax rebates;
5. Inclusion in the IUU fishing vessel list;
6. Denial of entry and other port services;
7. Blacklisting;
8. Increase in the amount of fines but not to exceed 5 times the value of the catch;
9. In case of repeated violations within a five-year period, the amount of fine may be increased up to 8 times the value of the catch;
10. Pending the administrative or the criminal case, the DA may impound the vessel, conveyance, gear and other paraphernalia used in the commission of the offense.

When may community service be imposed as penalty?

Where the offender is a municipal fisherfolk or has no property, community service may be rendered in lieu of the fine.

What are examples of community service?

Community service may include:

1. Planting of mangroves in mangrove areas or river embankments;
2. Rendering services for a period to a community-managed mangrove nursery, marine finfish hatchery or community fish landing center;
3. Conducting alternative livelihood seminars, medical missions, or provision of educational supplies in the community where the offense was committed;
4. Developing and disseminating information, education campaign material on fishery and fishery resource management and conservation;
5. Participating in or undertaking a coastal clean-up operation; or
6. Organizing other activities that will redound to the benefit of the community where the violation was committed.

How should confiscated items be disposed?

Confiscated items will be disposed as follows:

1. Turn-over living aquatic wildlife to the aquatic wildlife rescue centers recognized by the DA-BFAR for rehabilitation before release to the wild;
2. Turn-over dead aquatic wildlife to the nearest DA-BFAR Regional or Provincial Fisheries Office; and
3. Dispose confiscated gears, paraphernalia and equipment, in accordance with the guidelines to be promulgated by the Adjudication Committee.

Can the courts issue injunctions or Temporary Restraining Order (TRO) against DA and BFAR?

Except the Supreme Court, no court can issue a writ of injunction or temporary restraining order against the DA and BFAR, LGU or any enforcement agency in the exercise of their regulatory functions to implement this Code.

VII. Citizen's suits and Strategic Lawsuit Against Public Participation SLAPP

When is a citizen's suit applicable?

A citizen may file an administrative, civil, and criminal action against:

1. Any person who violates the Fisheries Code and its implementing rules;
2. The DA, BFAR or other implementing agencies with respect to orders, rules and regulations issued inconsistent with the Fisheries Code; and
3. Any public officer who neglects a duty required by the Fisheries Code and its implementing rules or abuses authority in the performance of duty.

Is there a notice requirement in a citizen's suit against a public officer?

Yes, no suit can be filed until after a 15-day notice has been given the alleged offender and no appropriate action has been taken.

What is the procedure of a citizen's suit in administrative proceedings?

The procedure is based on the rules to be issued by the adjudication committee.

What is a SLAPP suit?



"SLAPP"

SLAPP is Strategic Lawsuit Against Public Participation (SLAPP). It is a case filed to harass, pressure, or vex enforcers and ordinary citizens who push for fishery reforms, or stifle any legal action to implement or enforce the Fisheries Code.

What should a person do when a SLAPP suit is filed against him or her?

A person can use the defense of SLAPP in the case itself; that the case was filed merely for harassment, for example. If the court dismisses the case, the court may award damages, attorney's fees, and costs under a counterclaim.

What is the procedure of the defense of SLAPP suit?

The hearing of the defense of SLAPP suit is mandatory and summary in nature and must be resolved within 30 days after the summary hearing.



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