

[MEMORANDUM CIRCULAR NO. 2018-59, May 22, 2018]

POLICIES AND GUIDELINES ON THE REGULATION AND MONITORING OF FISHERY ACTIVITIES IN MUNICIPAL WATERS

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1.0 Background

1.1 Article XII, Section 2 of the 1987 Philippine Constitution provides, inter alia, that all waters and fisheries of the Philippines are owned by the State;

1.2 The fourth WHEREAS Clause of Presidential Decree (PD) No. 1067, otherwise known as the Water Code of the Philippines states that “water is vital to national development and it has become increasingly necessary for government to intervene actively in improving the management of water resources”;

1.3 Philippine Development Plan 2017-2022 states that one of the strategies to expand Economic Opportunities in Agriculture, Forestry, and Fisheries is to pursue an ecosystem approach to fisheries management, through the regulation of fishery structures such as fish pens and cages in inland bodies of water;

1.4 As an expression of the Philippine Government's commitment to pursue sustainable development, the Philippine Agenda 21, the nation's blueprint for sustainable development, includes Ecological Soundness as one of its principles. It also includes specific activities and programs involving Coastal and Marine Ecosystem; and

1.5 Section 16 of Republic Act (R.A.) No. 7160, otherwise known as The Local Government Code of 1991 states that every Local Government Unit (LGU) shall exercise the powers expressly granted for its efficient and effective governance, and those which are essential to the promotion of the general welfare, and that LGUs shall support the preservation and enrichment of culture, and enhance the right of the people to a balanced ecology.

2.0 Purpose

The purpose of this policy is to ensure that LGUs play an active role, and hold them accountable to their action/inaction towards the monitoring and regulation of fishery activities in municipal waters as part of their territorial jurisdictions. This policy issuance shall serve as a reminder to

LGUs to exercise their powers in ensuring that the law is strictly enforced, followed and implemented. This policy issuance intends to enjoin LGUs to undertake the responsibility of improving the management of water resources.

These guidelines are hereby issued in accordance with Republic Act No. 8550 otherwise known as the "Philippine Fisheries Code of 1998" as amended by R.A. No. 10654, and other related laws and policies.

3.0 Legal Compliance

3.1 Section 149 of Republic Act No. 7160 states that the municipalities shall have the exclusive authority to grant fishery privileges in municipal waters and impose rentals, fees, or charges thereof;

3.2 Section 16 of Republic Act No. 8550 as amended by R.A. No. 10654 states that "The municipal/city government shall have jurisdiction over municipal waters as defined in this Code. The municipal/city government, in consultation with the Fisheries and Aquatic Resources Management Councils (FARMCs) shall be responsible for the management, conservation, development, protection, utilization, and disposition of all fish and fishery/aquatic resources within their respective municipal waters"; and "The LGUs shall have authority over municipal waters to enforce all fishery laws, rules and regulations, and valid fisheries ordinances enacted by the city/municipality council."

3.3 Section 20 of Republic Act No. 9275, otherwise known as the Philippine Clean Water Act of 2004 states that the LGUs shall share responsibility in the management and improvement of water quality within their territorial jurisdictions.

4.0 Scope/ Coverage

All concerned City/Municipal Mayors, and Punong Barangays are required to observe the policies and guidelines on the monitoring, and regulation of fishery activities in municipal waters, and the DILG Regional Directors to ensure that LGUs within their respective areas of jurisdiction comply with the policies and guidelines set forth in this Memorandum Circular.

5.0 Definition of Terms

For purposes of this Memorandum Circular, the following terms shall be defined as:

1. *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:

- a. Small scale commercial fishing - fishing with passive or active gear utilizing fishing vessels of 3.1 gross tons (GT) up to twenty (20) GT;
- b. Medium scale commercial fishing - fishing utilizing active gears and vessels of 20.1 GT up to one hundred fifty (150) GT; and

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

2. *FARMCs* - the Fisheries and Aquatic Resources Management Councils;

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

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

5. *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;

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

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

8. *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;

9. *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;

10. *Fisheries Structures* - All forms of water and land-based fisheries structures, stationary or movable, including but not limited to, fish cages, fish pens, fishponds, fish corrals, and fish shelters which may obstruct the free navigational passage of any water craft along defined waterways or impede the flow of tide to and from the area;

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

12. *Fishing Gear* - refers to 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 the pursuit of the target species by towing, pushing the gears, surrounding, covering, dredging, and scaring the target species to impoundments; such as, but not limited to, trawl, purse seines, Danish seines, paaling and drift gill net

(b) *Passive Fishing Gear* - is characterized by the absence of pursuit of the target species; such as, but not limited to, hook and line, fishpots, traps and gill nets set across the path of the fish;

13. *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;;

14. *Fishing Vessel/Gear License* - refers to a permit to operate specific types of fishing vessel/gear for specific duration in areas beyond municipal waters for demersal or pelagic fishery resources;

15. *Harvest Control Rules* - refers to actions or set of actions to be taken to achieve a medium or long term target reference point while avoiding reaching or breaching a limit reference point;

16. *Monitoring, Control, and Surveillance* -

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;

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

18. *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;

19. *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) kilometres from such coastline. Where two (2) municipalities are so suited 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;

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

21. *Reference Points* - means benchmark values often based on indicators such as fishery stock size or the level of fishing that serves as standard to compare estimates of a fishery stock size and fishing mortality over time depending on the biological characteristics of the species. Reference points can mark: (a) a limit or a level that should be avoided; (b) a target, which should be achieved and maintained; or (c) a trigger that signals the need to take prescribed actions;

22. *Vessel Monitoring Measure* - means a method or a 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;

23. *Vessel Monitoring System* - refers to 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; and

24. *Water Quality* - means the characteristics of water, which define its use in characteristics by terms of physical, chemical, biological, bacteriological or radiological characteristics by which the acceptability of water is evaluated.

6.0 Policy Content and Guidelines

6.1 ON THE ESTABLISHMENT OF MUNICIPAL/CITY FISHERIES AND AQUATIC RESOURCES MANAGEMENT COUNCIL (M/CFARMCs)

6.1.1 Pursuant to Executive Order No. 240, Series of 1995, there is hereby created FARMCs in all barangays, municipalities, and cities abutting municipal waters. In bays, gulfs, lakes, rivers, and dams bounded by two or more barangays or municipalities/cities, Integrated FARMCs shall be created. In cases where M/C FARMC is yet to be established, the concerned LGUs shall provide full support and assistance to fisherfolk organizations/cooperatives and NGOs in its formation;

6.1.2 For further institutionalization and development of local FARMCs, all LGUs shall encourage, assist, and monitor the formation of Barangay FARMCs in aiding the regulation of fishery activities in areas within their jurisdiction;

6.1.3 Pursuant to Section 75 of R.A. No. 8550 as amended, the regular members of the M/CFARMCs shall be composed of the following:

- a) Municipal/ City Planning Development Officer;
- b) Chairperson, Agriculture/Fishery Committee of the Sangguniang Bayan/Panlungsod;
- c) A representative of the Municipal/City Development Council;
- d) A representative from the accredited non-government organization;