

DRAFT (Legal Division)
DA Administrative Order No. _____
Series of 2019

**SUBJECT : Guidelines for Delineating/Delimiting
Municipal Waters for Municipalities and
Cities with Offshore Islands.**

Pursuant to Section 157 of Republic Act Number 8550, otherwise known as the Philippine Fisheries Code of 1998, as amended by Republic Act Number 10654 and Section 157.1 of the Implementing Rules and Regulations Pursuant to Republic Act Number 10654, the following regulations and guidelines governing the delineation and delimitation of municipal waters for Municipalities and Cities with offshore islands of the country is hereby promulgated:

Section 1. Basic Policy

- a. to achieve food security as the overriding consideration in the utilization, management, development, conservation and protection of fishery resources in order to provide the food needs of the population. A flexible policy towards the attainment of food security shall be adopted in response to changes in demographic trends for fish, emerging trends in the trade of fish and other aquatic products in domestic and international markets, and the law of supply and demand;
- b. to limit access to the fishery and aquatic resources of the Philippines for the exclusive use and enjoyment of Filipino citizens;
- c. to ensure the rational and sustainable development, management and conservation of the fishery and aquatic resources in Philippine waters including the Exclusive Economic Zone (EEZ) and in the adjacent high seas, consistent with the primordial objective of maintaining a sound ecological balance, protecting and enhancing the quality of the environment;
- d. to protect the rights of fisherfolk, especially of the local communities with priority to municipal fisherfolk, in the preferential use of the municipal waters. Such preferential use, shall be based on, but not limited to, Maximum Sustainable Yield (MSY) or Total Allowable Catch (TAC) on the basis of resources and ecological conditions, and shall be consistent with our commitments under international treaties and agreements;
- e. to provide support to the fishery sector, primarily to the municipal

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

- f. to manage the fishery and aquatic resources, in a manner consistent with the concept of an integrated coastal area management in specific natural fishery management areas, appropriately supported by research, technical services and guidance provided by the State; and
- g. to grant the private sector the privilege to utilize fishery resources under the basic concept that the grantee, licensee or permittee thereof shall not only be a privileged beneficiary of the State but also active participant and partner of the Government in the sustainable development, management, conservation and protection of the fishery and aquatic resources of the country.

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

- 1. Conservation, protection and sustained management of the country's fishery and aquatic resources;
- 2. Poverty alleviation and the provision of supplementary livelihood among municipal fisherfolk;
- 3. Improvement of productivity of aquaculture within ecological limits;
- 4. Optimal utilization of offshore and deep-sea resources; and
- 5. Upgrading of post-harvest technology.

Section 2. Definition of Terms:

For the purposes of this manual, the following definition of terms shall be used:

Adjacent municipalities - coastal municipalities sharing a common land boundary point on the coast

Awash - flush with or washed by waves

Baseline - the line from which the outer limits of municipal waters are projected

Basepoint - a point on land from which baselines are drawn

Cay - a low, flat island of sand, coral, or other material which is awash or dries during low water

Coast - the edge or margin of land next to the sea.

Coast terminal point - a boundary point on the coast, common to two adjacent municipalities

Coastline - the line where the shore and water meet

Delimitation - the determination of boundaries of municipal waters between adjacent or opposite municipalities where the delineation of their respective waters show that their respective municipal waters overlap

Delineation - the determination of the outer limits of the municipal waters of a municipality

General coastline of the municipality - refers to the coastline of the mainland and offshore and/or fringing islands of the municipality

High water or high tide - refers to highest level reached at a place by the water surface in one oscillation

Island - a naturally formed area of land, surrounded by water, provided that where the island is surrounded by the sea, the same should also always be above the water at high tide

Lateral boundary- the municipal water boundary between two adjacent municipalities

Low water or low tide - refers to lowest level reached at a place by the water surface in one oscillation

Low water line or low water mark - the intersection of the plane of low water with the shore; the line along a coast or beach to which the sea recedes at low water

Mainland of the city or municipality - the land area of the municipality within which the municipal capitol is located

Median line or equidistance line - a line every point of which is equidistant from the nearest points on the coasts of two municipalities

Municipality - a local government unit as defined under the local government code.

Municipal archipelagic baseline - a baseline used in cases where the municipality is composed of inhabited islands or has offshore and/or fringing islands

Normal baseline - the baseline described by the coastline of a municipality, where such coastline is relatively smooth and simple and there are no outlying or fringing islands, reefs, rocks, pinnacles, or other abutting features.

Opposite municipalities - municipalities not sharing land boundaries but having coastlines which face each other and are less than thirty (30) kilometers apart

Pinnacle rock - a sharp pointed rock rising from the bottom, which may extend above the surface of the water

Reef - a mass of rock or coral which either reaches close to the sea surface or is exposed at low tide

Rock - a formation of natural origin that constitutes an integral part of the lithosphere, which may or may not always be above high tide

Sandbar - a shallow portion of the coast largely made of loose sand that is near the surface of the water

Shoal - an offshore hazard to navigation on which there is a depth of ten (10) fathoms or twenty (20) meters or less, composed of unconsolidated material except coral or rock.

Straight baseline - a baseline used in cases where the coastline is deeply indented or cut into

Tidal water - any water the level of which changes periodically due to tidal action

Section 3. Coverage

The coverage of this administrative order shall be all the municipal waters as defined by Sec. 4 of RA 8550, as amended by RA 10654 which 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 RA 7586 (The NIPAS Law), public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two (2) lines drawn perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline including offshore islands and fifteen (15) kilometers from such coastline. Where two (2) municipalities are situated on opposite shores that there is less than thirty (30) kilometers of marine waters between them, the third line shall be equally distant from opposite shore of the respective municipalities. This administrative order shall not be construed to preclude special agencies or offices in exercising their jurisdiction over municipal waters by virtue of special laws creating these agencies such as, but not limited to, the Laguna Lake Development Authority and the Palawan Council for Sustainable Development, pursuant to Sec. 17 of RA 8550.

Section 4. Role/Responsibility of Agencies

In order to have an efficient and effective flow of activities in the delineation/delimitation of municipal waters for municipalities and cities with offshore islands, the role of the agencies involved are herein provided:

- A. The Department of Environment and Natural Resources (DENR) shall hereby authorize the NAMRIA to assist in the delineation of municipal waters, under its supervision and control. The DA shall also provide the implementation mechanism for the delineation/delimitation and provide assistance/support and participate in the conduct of public hearing through its field offices, units, agencies, programs, and projects.
- B. National Mapping and Resource Information Authority (NAMRIA), in accordance with the authority granted to it by Section 157 of RA 8550, as amended by RA 10654 shall delineate or delimit the boundaries of municipal waters on maps or charts of appropriate scale as requested by the local government units and as a result, provide the local government units proposed maps and technical descriptions of the maps before the conduct of the public hearing; approve the maps, charts, and technical descriptions as a result of delineation/delimitation of municipal waters; participate in public hearings and consultations conducted in relation to the delineation/delimitation of municipal waters and take note of comments, inputs, suggestions, reactions or objections to the proposed delineation/delimitation; and as a result revise maps, charts, or technical descriptions as a result of the public hearing; approve an official copy of maps, charts, and technical descriptions and provide the approved maps to the municipality/city concerned; provide technical assistance relevant to delineation and delimitation of municipal waters; act as the repository of

all technical descriptions and corresponding original maps or charts of all municipal waters; and finally, conduct actual verification of boundary limits as required.

- C. Local Government Units shall request the NAMRIA to delineate/delimit the boundaries of their municipal waters; conduct public hearings and consultation in relation to the proposed delineation/delimitation; settle disputes with adjacent or opposite municipalities arising from the delineation/delimitation through the Sangguniang Bayan/Panglungsod or Panlalawigan or in any appropriate body; and enact the corresponding ordinances setting forth the exact of its municipal waters, incorporating thereof the maps or charts and technical descriptions.
- D. Other Agencies and/or Entities that are involved in the management and development of municipal waters should assist in the delineation/delimitation of municipal waters. Information (map, technical descriptions, etc.) of areas under their administrative jurisdiction should be provided.

Section 5. Systems and Procedures

A. Requirements to Start Delineation Process

1. Filing of Request for Delineation

All requests for delineation and delimitation of municipal waters shall be directed to the Administrator of the NAMRIA, through the Director of the (Hydrography Branch)

A request may be made by any of the following:

- a) a city or municipality individually or jointly with other cities/municipalities with whom common boundaries are shared, through a resolution of the Sangguniang Panglungsod or Sangguniang Bayan;
- b) a province on behalf of all of its coastal municipalities, through a resolution of the Sangguniang Panlalawigan;
- c) a national government agency on behalf of any city or municipality, through a formal letter/request signed by the head of the agency, but only with the conformity of the affected local government units, expressed in form of a resolution of the Sangguniang concerned

which shall be attached to the letter/request.

A copy of the resolution or letter/request shall be furnished by the requesting Local Government Unit (LGU) or National Government Agency (NGA) to:

- a) the DENR Community Environment and Natural Resources Office (CENRO) and/or the relevant DENR Regional Office;
- b) the BFAR;
- c) any adjacent or opposite municipality which may be affected by the delineation and/or delimitation;
- d) the Regional Office of the Philippine National Police Maritime Group (PNP-MARITIME);
- e) any special agency having jurisdiction over coastal waters which may be excluded from municipal waters in accordance with the Fisheries Code (e.g. the Protected Area Management Board (PAMB) with respect to areas under the NIPAS Act);

2. Basic Technical Requirements for Requesting Entity. The filing of request for delineation must include basic technical requirements such as:

- a) a list of known or named islands and maps of said islands under the jurisdiction of the municipality whose municipal waters are to be delineated and delimited with the attendant certification as to whether these islands are inhabited or not; and
- b) a copy of the legislation/proclamation creating the municipality or city.

3. Response

The NAMRIA, through the Director of the Coast and Geodetic Survey Department, shall schedule the delineation and delimitation of the municipal waters of the municipality. A copy of the response shall also be furnished to any adjacent or opposite municipality, which may be affected by the delineation and/or delimitation.

B. Procedure for Delineation and Delimitation of Municipal Waters

1. Delineation of Municipal Waters

a) Use of normal baselines

- i. Where the coastline is not deeply indented or cut into, and there are no outlying or fringing islands, reefs, or rocks, the normal baseline shall be the low water line.
- ii. The normal baseline shall determine the general coastline of the municipality for purposes of delineation and delimitation.
- iii. The outer limits of the municipal waters of the municipality shall be determined by a line parallel to the normal baselines and fifteen (15) kilometers therefrom.

b) Use of straight baselines.

- i. Where the coastline is deeply indented and/or there are outlying or fringing reefs or rocks, the outermost points of the coastline may be connected by straight baselines, provided that the length of such baselines does not exceed thirty (30) kilometers.
- ii. In such cases, the straight baselines shall determine the general coastline of the municipality for purposes of delineation and delimitation.
- iii. Reefs, rocks, cays, shoals, sandbars, and any other features which are submerged during high tide shall not be used as base points. Neither shall they have their own coastlines.
- iv. The outer limits of the municipal waters of the municipality shall be determined by a line parallel to the straight baselines and fifteen (15) kilometers therefrom.

c) Reckoning baselines

- i. The reckoning point of the measurement of the 15 kilometer municipal water shall be the coastline of the mainland municipality. All offshore islands within the municipal water of the mainland municipality shall be deemed included therein, and shall not generate their own municipal waters.

For the purpose of applying this rule to island municipalities, their mainland shall be the island where the seat of their local government is situated.

For offshore islands, inhabited or not, beyond 15 kilometres from the coastline of the mainland municipality or island municipalities described in the preceding paragraph, no commercial fishing shall be allowed in their surrounding waters up to seven (7) fathoms deep.

- ii. Rocks, reefs, cays, shoals, sandbars, and other features which are submerged during high tide shall not be used as base points for municipal archipelagic baselines. Neither shall they have their own coastlines.

- d) Combination of baselines

A combination of normal and straight baselines, or normal and municipal archipelagic baselines, may be used depending on the circumstances and in the interest of simplicity in determining the general coastline and delineating municipal waters.

2. Delimitation of Adjacent Municipal Waters

- a) Where the general coastline is not curved or irregularly shaped at the coastal terminal point of the land boundary common to two (2) adjacent municipalities, the lateral boundary shall be determined by a line perpendicular to the general coastline at the terminal point.

- b) Where the general coastline at the point where the land boundary touches the sea is curved or irregularly shaped, making the determination of a perpendicular line impossible, the lateral boundary between two (2) adjacent municipalities may be determined by either of the following methods, depending on the complexity of the coastline:

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- i. Simplified bisection

^{1 1 1} *Where the territory of a municipality includes several islands, the coastline of the farthest island which is within the 15-kilometer municipal water measured from the mainland each of the inhabited islands shall serve as baseline for purpose of determining their municipal waters; however, for islands of the municipalities found outside of the said 15-kilometer municipal waters, each of the inhabited islands shall serve as baseline for purpose of determining their municipal waters, such that each of the islands shall have their own separate municipal waters.*

The lateral boundary shall be determined as follows:

- i.a) Examine the direction of the general coastline on both sides of the common coastal terminal point. On each side of the common point, draw a straight line, a short baseline, whose length shall be limited to the point where the direction of the general coastline changes significantly or veers to another quadrant (see Fig. 1 for illustration).
- i.b) Draw perpendicular lines to the coastlines on both sides of the common terminal point, passing through this common terminal point. Bisect the angle formed by the two perpendicular lines. The bisector is the lateral boundary of the municipal waters between the adjacent municipalities. The bisector will extend fifteen (15) kilometers if the coastlines beyond to short baseline will no longer affect its equidistance from both coastlines; otherwise, it will extend only up to a distance beyond which the equidistance line method shall already be applied (see Fig. 1 for illustrations).

ii. Equidistance line

The lateral boundary shall be determined by a line equidistant from the coastlines of the adjacent municipalities, as determined through the use of the baselines under Paragraphs 1a through 1c of Section 5B.

3. Delimitation of Opposite Municipal Waters

In the case of opposite municipalities which are less than thirty (30) kilometers apart, the municipal water boundaries between them shall be determined by the median or equidistance line between the general coastlines of the respective municipalities, as determined through the use of the baselines under Paragraphs 1a through 1c of Section 5B.

4. Delimitation of Municipal Waters of Three or More Adjacent and Opposite Municipalities.

In cases where three or more municipalities are so situated that they have

overlapping municipal water, the delimitation of the lateral and offshore boundaries of their municipal waters shall be determined by the equidistance line method. The lateral boundaries will usually end at a point which is common to three or more municipalities, at the offshore boundary.

5. Previous Delimitation of Municipal Boundaries

Where the Cities or Municipalities have previously delimited their municipal waters, such delimitation shall be amended, if necessary, to conform with the provisions of this order.

6. Finalization Only After Approval

The technical description of municipal waters shall be, deemed final only after the boundaries of municipal waters have been duly approved by the city or municipality as evidenced by a final and executory ordinance embodying the same. Each boundary corner common to two (2) adjacent or opposite municipalities shall have exactly the same geographic position.

7. Depth Curve

Where practicable, the seven (7) fathom depth curve from 10.1 km of municipal waters shall be clearly indicated on the maps provided by the NAMRIA.

8. Demarcation of Marine Reserves, Sanctuaries, or Other Special Areas

If within or overlapping with the municipal waters, there is a marine reserve, sanctuary, or other special area under the exclusive jurisdiction of an entity other than the municipality, a clearance shall be obtained by the NAMRIA from said entity prior to the inclusion of the boundaries of such reserve, sanctuary, or special area, or such part thereof which overlaps with the municipal waters so as to effectively exclude the same from the computation of the area of municipal waters. Provided that, the protected seascape or marine reserve area shall be managed by local governments according to the mandate and responsibilities as provided in the NIPAS Law. Nothing in this provision shall prevent the National Government from declaring any portion of municipal waters as Protected Areas or Marine Reserves.

C. Publication and Public Hearing

1. Public Hearing.

The NAMRIA shall submit to the requesting city or municipality a preliminary delineation of the municipal waters, and delimitation thereof with respect to any adjacent or opposite municipality, drawn on maps or charts of appropriate scale, and accompanied by a technical description. Such delineation and/or delimitation shall be in accordance with the technical guidelines set forth in Section 5B hereof.

The requesting city or municipality shall cause the publication of the map or chart clearly showing the delineation and/or delimitation of municipal waters, through:

- a) posting in prominent places in the city or municipality;
- b) dissemination of copies of the same to all the component barangays; and
- c) furnishing copies, through regular channels, to any cities or municipalities affected.

In accordance with regular processes and practices, the requesting city or municipality shall conduct the same for public hearing and consultation for the purpose of receiving comments, inputs, suggestions, reactions, or objections to the proposed delineation and/or delimitation. The NAMRIA may be present at the public hearing to document and consider such comments, inputs, suggestions, reactions, or objections.

Adjacent or opposite municipalities may, if they so decide for purposes of convenience and practicality, jointly hold the public hearings.

2. Disputes with Adjacent or Opposite Municipalities

If adjacent or opposite municipalities, as well as agencies having jurisdiction over defined coastal waters, or any interested parties, raise any objection to the preliminary delineation and/or delimitation of municipal waters, such objection shall be made in writing, in the form of a Resolution of the Sangguniang Bayan or Panglungsod concerned, or an official letter from the responsible officer or person, and officially presented at public hearing.

a) Amicable Settlement Encouraged

In case of boundary conflict, this guideline shall not prevent the municipalities concerned from negotiating or mutually agreeing to common municipal water boundaries provided there is substantial compliance with the provisions of the law. Such negotiated boundaries shall be submitted to the NAMRIA for verification. The NAMRIA may also provide technical assistance and advice to the municipalities in the course of their negotiations.

The delimitation of municipal water boundaries in accordance with a negotiated settlement shall be certified by the NAMRIA prior to its final and submission for enactment as an ordinance. Certification of such negotiated boundaries shall not be denied under normal circumstances.

b) Irreconcilable Differences

In case the municipalities cannot settle their differences amicably through negotiation, and the differences are based on the proper application of technical rules and guidelines, they shall jointly submit the issue to the Sangguniang Panlalawigan (SP) for decision, pursuant to their plenary review powers under Sec.56 of RA 7160 (Local Government Code) of 1991. The NAMRIA shall provide the technical support to the SP. The Sangguniang Panlalawigan shall inform the municipalities of its decision within thirty (30) days from the submission of the issue.

c.) Disputes Before Other Fora

Where at the time of the delineation and/or delimitation, the dispute is pending before another forum on account of substantial issues that go beyond the application of technical rules and guidelines (e.g., when there is a pending case before a regular court over ownership and/or jurisdiction over islands or other features), the NAMRIA may, in the meantime, delineate and determine the temporary municipal water boundaries between the contesting municipalities, without considering the contested islands or features, provided that the affected municipalities agree to such temporary delimitation, provided further that the temporary delimitation shall be subject to the outcome of the dispute as determined by the concerned forum.

D. Revision and Finalization

1. Certification of Final Map

The NAMRIA, after considering the inputs from the public hearing, or the

outcome of the dispute settlement mechanisms set forth in Paragraph 2 of Section 5C, shall revise the delineation and/or delimitation, and within thirty (30) days from the date of the last public hearing or last meeting under Paragraph 1 of Section 5C, provide an official copy of the revised maps, charts, and technical descriptions to the requesting city or municipality. Such maps, charts, and technical description shall be duly certified by the NAMRIA Administrator as comprising the final and definitive delineation and/or delimitation of municipal waters.

2. Enactment of Ordinance

After the receipt of the revised and certified delineation or delimitation, if any, or of the date of the date of the last public hearing if no revision was necessary, the requesting city or municipality shall enact an ordinance setting forth the extent of its municipal waters, incorporating the maps, charts, and technical descriptions prepared and verified by NAMRIA as an integral part of the ordinance, provided that in enacting the ordinance, no amendments shall be made to the maps, charts, or technical descriptions prepared and approved by NAMRIA. Once the ordinance has become final and executory, the original copy must be submitted to the NAMRIA and official copies thereof shall be provided to the following:

- a) any adjacent or opposite municipalities affected by the delimitation;
- b) the BFAR;
- c) the Regional Office of PNP-MARITIME;
- d) any concerned special agency having Jurisdiction over coastal waters which may be excluded from municipal waters;
- e) any affected party or sector the city or municipality may deem fit to notify;
- f) the DENR field office.

3. Repository Function

The NAMRIA shall be the repository of all technical descriptions and corresponding maps or charts of all municipal waters. An official copy of such technical descriptions and maps or charts shall be provided to the municipality concerned.

Section 6. Fees and Costs.

Each municipality shall be charged with a service fee and a verification fee as determined by NAMRIA.

Section 7. Repealing Clause

All orders, rules, and regulations inconsistent with or contrary to the provisions of these Guidelines are hereby repealed or modified accordingly.

Section 8. Effectivity

This administrative Order shall take effect fifteen (15) days after its publication in Official Gazette and newspaper of general circulation.

EMMANUEL F. PIÑOL
Secretary, DA

Recommending Approval:

EDUARDO B. GONGONA
Undersecretary for Fisheries, DA/
National Director, BFAR