



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



(First Draft)

FISHERIES ADMINISTRATIVE

ORDER NO. _____:

(Series of 2018)

SUBJECT: RULES AND REGULATIONS ON THE IMPLEMENTATION OF VESSEL MONITORING MEASURES (VMM) AND ELECTRONIC REPORTING SYSTEM (ERS) FOR COMMERCIAL PHILIPPINE FLAGGED FISHING VESSELS

WHEREAS, the Bureau of Fisheries and Aquatic Resources under the Department of Agriculture (DA-BFAR) is mandated for the proper conservation, protection and management of the country's marine resources.

WHEREAS, the Philippines is a signatory to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean and is a party to various regional fisheries management organizations (RFMOs) such as the Western Central Pacific Fisheries Commission (WCPFC) and other Tuna RFMOs. As such, the Philippines must implement management measures such as vessel monitoring systems in accordance with the Convention and resolutions of the RFMOs.

WHEREAS, in accordance with Section 14 of Republic Act No. 8550 as amended by Republic Act No. 10654, entitled "An Act to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, Amending Republic Act No. 8550, Otherwise Known as the Philippine Fisheries Code of 1998 and for Other Purposes" the DA-BFAR is mandated to establish a Monitoring, Control and Surveillance (MCS) system in coordination with the LGUs, FARMCs, the private sector and other agencies concerned to ensure that the fisheries and aquatic resources are judiciously and wisely utilized and managed on a sustainable basis and conserved for the benefit and enjoyment exclusively of Filipino citizens. The MCS System shall encompass all Philippine flagged fishing vessels regardless of fishing area and final destination of catch.

WHEREAS, SEC. 119 of the Fisheries Code, as amended, provides that no commercial or distant water fishing vessel shall engage in fishing activity without complying with the vessel monitoring measures promulgated by the Department.

RECOGNIZING the importance of vessel monitoring measures as an MCS tool to achieve the conservation and management of fisheries and aquatic resources in the Philippines and pursuant to the foregoing laws, the Department of Agriculture, through the Bureau of Fisheries and Aquatic Resources (DA-BFAR) hereby promulgate and implement the following rules and regulations, in accordance with Republic Act No. 8550 as amended by Republic Act No. 10654, for compliance of all concerned.

CHAPTER I
General Provisions

Section 1. Objectives. This order has the following objectives:

- a. To enhance monitoring of fishing operations for fisheries management through the implementation of vessel monitoring measures.
- b. To enhance law enforcement to regulate the capture fisheries sector towards achieving long term resource sustainability.
- c. To implement vessel monitoring measures to track fishing behavior for scientific research and data.
- d. To establish a system that will facilitate law enforcement and aid in case building and prosecution of fisheries law violations.
- e. To gather data on fishing effort and catch databy means of an electronic reporting system which will serve as basis for fisheries management measures.
- f. To aid in the seafood traceability and catch documentary requirements of the government.
- g. To ensure safety for fishers thru a tracking device that would monitor the vessels' location during accidents and disasters.
- h. To implement policies embodied in Republic Act 8550, as amended by RA 10654 and its implementing rules and regulations, which refers to the vessel monitoring requirements of fishing vessels

Section 2. Scope. – No commercial vessel shall engage in fishing activity without the vessel monitoring measures as established herein. For this purpose, VMM shall apply to licensed Philippine flagged fishing vessels operating within and outside Philippine waters.

The VMS shall apply to all licensed Philippine flagged commercial fishing vessels authorized by the BFAR to operate in the high seas an-d those fishing vessels with access rights to fish in other countries' exclusive economic zones. However, all catcher fishing vessels operating within Philippine waters which includes the Exclusive Economic Zone (EEZ), the VMS shall be implemented in phases as follows:

Vessel Tonnage	Schedule of Implementation from Effectivity of this FAO
50 to 99 GT	Within one (1) year
30 to 49 GT	Within two (2) years

For catcher fishing vessels weighing 3.1 to less than 30 GT and fishing vessels less than 3.1 GT, the non-satellite or satellite VMM shall be implemented upon registration or renewal of license within 3 years from the effectivity of the FAO.

All vessels weighing 100 GT and above must have installed a corresponding VMS by effective date of this FAO.

Section 3. Electronic Reporting System. - ERS devices shall be used to record and transmit catch data to the DA-BFAR in real time or simultaneous to the transmissions of location data. ERS may be satellite or non-satellite based device.

All catcher vessels 30 GT and above operating either in the high seas or with access rights to fish in other coastal states and or fishing in the Philippine EEZ shall have an installed Electronic Reporting System which can connect to the VMS transceiver to send fishery information to BFAR.

For all other vessels, ERS need not be in real time. Data shall be transmitted soonest possible time before or upon reaching port.

The ERS must be able to transmit to BFAR the following (minimum):

1. Species and volume of fish caught
2. Position of the vessel where the fish was caught
3. Date and Time
4. Vessel activity
5. Port of Origin and Arrival
6. Tracking and reporting devices used
7. Margin of tolerance and weight for catch reporting
8. Data manual reporting in case operational failure

Section 4. Definition of Terms. For purposes of this Order, the following terms as used herein shall mean and shall be construed as follows:

- a. Automatic Identification System (AIS) - a Very High Frequency (VHF) radio broadcasting system which enables AIS equipped vessels and shore-based stations to send and receive identifying information.
- b. Automatic Location Communicator (ALC) or Mobile Tracking-Transceiver Unit - an automatic tracking device approved by the Bureau to be installed on the fishing vessels that utilizes a satellite navigation and communication system for the purpose of transmitting information concerning the Philippine flagged fishing vessels positions, fishing activities, and any other activity of the vessel as may be required.
- c. Catcher vessel- a type of fishing vessel with fishing gear on board and does the actual catching of fish.
- d. 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:
 - i. Small scale commercial fishing - fishing with passive or active gear utilizing fishing vessels of 3.1 gross tons (GT) up to twenty (20) gross tons,
 - ii. Medium scale commercial fishing - fishing utilizing active gears and vessels of 20.1 GT up to one hundred fifty (150) GT, and
 - iii. Large scale commercial fishing - fishing utilizing active gears and vessels of more than one hundred fifty (150) GT.
- e. Commercial Fishing Vessel License (CFVL) - Refers to a permit to operate specific types of fishing vessel for specific duration in areas beyond municipal waters for demersal or pelagic fishery resources
- f. Commercial Fishing Gear License (CFGL) - Refers to a permit to operate specific types of fishing gear for specific duration in areas beyond municipal waters for demersal or pelagic fishery resources
- g. Department -the Department of Agriculture
- h. Director -the Director of the Bureau of Fisheries and Aquatic Resources
- i. Bureau - Bureau of Fisheries and Aquatic Resources (BFAR).
- j. Exclusive Economic Zone (EEZ) - an area beyond and adjacent to the territorial sea which shall not extend beyond 200 nautical miles from the Philippine baselines as defined under existing laws.
- k. Electronic Reporting System (ERS) - is used to record, report, process, store and send fisheries data (catch, landing, and transshipment). (verify FAO)
- l. High Seas - the area beyond Philippine waters which does not belong to the jurisdiction of any other State.

- m. IRR – Implementing Rules and Regulations of the Fisheries Code, as amended (RA 8550, as amended by RA 10654)
- n. IUUF – Illegal, Unregulated and Unreported Fishing
- o. Fish Aggregating Devices (FADs) – any man-made structures deployed in fishing grounds, either anchored or drifting, which is used mainly for the purpose of aggregating fish.
- p. Fisheries Monitoring Center (FMC) - serves as a land-based component for fisheries monitoring control and surveillance which operates and maintains the Vessel Monitoring Measures either at a national or regional level.
- q. FMC Software / VMS / VMM Software – refers to the Software acquired by the BFAR that has the ability to monitor/track all registered and licensed Philippine Flagged Vessels operating within the Philippine waters and areas beyond national jurisdiction.
- r. 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, transshipment, transportation and/or processing.
- s. Marine Protected Areas (MPAs) – a defined area of the sea established and set aside by law, administrative regulation, or any other effective means in order to conserve and protect a part of or the entire enclosed environment through the establishment of management guidelines. It is considered a generic term that includes all declared areas governed by specific rules or guidelines in order to protect and manage activities within the enclosed area.
- t. Philippine waters – includes all archipelagic waters, territorial waters, the EEZ and all areas where the Philippines exercises sovereignty or jurisdiction.
- u. Regional Fisheries Management Organizations (RFMOs) – regional organizations that implement conservation and management measures in tuna such as IOTC, ICCAT, CCSBT and WCPFC in which the Philippines is a member or cooperating non-member.
- v. Sensitive Technical Information – all data from the vessel monitoring system or vessel monitoring measure and other related data arising therefrom shall be considered as sensitive technical information
- w. Vessel Monitoring Measures (VMM) – 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. This shall cover VMS and other measures.
- x. Vessel Monitoring System (VMS) - 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.
- y. VMM device – specific units accredited by the DA-BFAR which could either be VMS or VMM.

CHAPTER II

Implementation of Vessel Monitoring Measures

Section 5. Fisheries Information Management Center (FIMC). The FIMC shall implement the rules and regulations on the conditions, terms of reference, confidentiality, mechanics, cost, installation, accreditation of service providers, approved types, restrictions, among others, under this order and other such orders that shall be promulgated by the Department.

Section 6. Fisheries Monitoring Center (FMC). The National Fisheries Monitoring Center shall host the monitoring system of all Philippine flagged fishing vessels within Philippine waters which includes the EEZ, the high seas and other countries' exclusive economic zones for the purpose of conservation and management of fisheries resources.

The FMC, located at the DA-BFAR Central Office in Quezon City, shall be the main center for monitoring and gathering data for the purpose of this Order.

Section 7. Regional Fisheries Monitoring Center. - This shall be established in the Regional Offices of the DA-BFAR to have the capability to access the data/ software at the FMC thru a secured network. The FMC has the full authority to control and grant access to the network of the Regional Offices of the DA-BFAR, which shall have data access to VMM in all regions

Section 8. Data Access. - The Fisheries Monitoring Center has the full authority and control in the confidentiality and security of VMM data. It also has the authority to grant access if so required.

For purposes of apprehension and fisheries law enforcement, the DA-BFAR and FMC shall transmit VMM data to the corresponding regional office of DA-BFAR as well as the local government units (LGUs) involved, for prompt action as soon as practicable. The DA-BFAR shall notify LGUs involved through the fastest means possible (e.g. radio, mobile, e-mail, etc.) in cases of encroachment of municipal waters.

In accordance with the rules under Sec. 24, VMM data may be transmitted to the Philippine Coast Guard (PCG), Philippine National Police (PNP), the Department of Environment and Natural Resources (DENR) and other government agencies as may be deemed appropriate and necessary.

Section 9. Data Access by Vessel Operators - Vessel operators shall have access to data generated by VMM. The DA-BFAR shall grant full access of the VMM data to the fishing vessel owner/ operator who acquired and installed the VMM to their own fishing vessel. Likewise, the DA-BFAR shall provide a unique username and password to each Owner/ Operator.

Section 10. Vessel Monitoring Measures in Marine Protected Areas - In coordination with the DA-BFAR, Protected Area Offices of each MPA shall have access to VMM data within their areas of jurisdiction, in accordance with the rules under Sec. 24.

In such case, the DA-BFAR shall transmit pertinent data to the Protected Area Offices under national laws and Executive Orders, local government units involved, and to concerned authorities such as the Philippine Coast Guard (PCG) and the Philippine National Police (PNP) as may be necessary and appropriate.

Section 11. VMM Requirement for Registration or License Renewal – As a prerequisite for registration or license renewal, all commercial fishing vessels must secure a certification confirming that:

- a. An accredited VMM has been installed and inspected as attested to by a DA-BFAR certified technical inspector
- b. The unit deployed has been accredited and certified as meeting the minimum standards set by the DA-BFAR.

Each VMM shall contain the vessel name, fishing gear, fishing ground and other parameters contained in the vessel registration. The DA-BFAR shall only register the commercial fishing vessel to its vessel database, and the Fishing Vessel e-Licensing System (FeLiS), upon successful registration or renewal license with the corresponding certification attached.

Section 12. Certification - The certification mentioned above shall be secured from the DA-BFAR which shall deploy a certified technical inspector from the regional FIMC or duly designated personnel to inspect proper installation of an accredited VMM device in the vessel.

CHAPTER III

Operational Requirements for Vessel Monitoring Measures

Section 13. Minimum Data Requirements - The DA-BFAR shall establish the following minimum data requirements for each VMM to be accredited under each vessel license:

- a. Unique vessel identifier
- b. Vessel name
- c. Allowed fishing gear and activity
- d. Allowed fishing ground

The foregoing requirements do not preclude the inclusion of other advanced data features in the VMM such as activity monitoring (e.g. fishing, transshipping, searching, etc.) and catch (e.g. electronic logbook) provided that the VMM complies with the minimum data requirements.

Section 14. Approved Type - The VMM to be installed onboard catcher vessels must be in accordance with the approved type and minimum standards which is set by the DA-BFAR FMC (See Appendix 1: FIMC Rules on VMM). All approved types must also be registered and accredited by the DICT-National Telecommunications Commission (NTC).

Section 15. Accredited Data Systems - VMM shall be open to various data systems such as the following:

- a. Automatic Location Communicator (ALC)
- b. Automatic Identification System (AIS) AIS Class A
- c. Automatic Identification System (AIS) AIS Class B
- d. Radio Frequency
- e. Global Positioning System
- f. Global System for Mobile (GSM)
- g. Other data connections (e.g. Bluetooth, WiFi, Airdrop, etc.)

Provided that all licensed Philippine flagged commercial fishing vessels authorized by the BFAR to operate in the high seas and those fishing vessels with access

rights to fish in other countries' exclusive economic zones shall be installed with a two-way ALC.

The foregoing list is not exclusive and may include existing and future technology that may be developed to monitor fishing vessels.

Section 16. Accreditation of Data Systems - All data systems that shall be used must first be accredited with the FMC vessel monitoring system for compatibility before it may be deployed for use in fishing vessels. If there is any future technology that may be developed for vessel monitoring purposes, such developer/supplier shall apply for accreditation under the DA-BFAR which shall issue a certification to that effect.

Section 17. Accreditation of Service Provider. - Private service providers may apply for accreditation with the DA-BFAR to supply VMM and ERS devices for fishing vessels. Such provider shall have the following qualifications:

- a. Legal entity must be duly registered or recognized under Philippine laws.
- b. Must not have any past or pending criminal or fisheries administrative cases.

Such Private Service Providers shall execute a non-disclosure agreement with the DA-BFAR, containing standards of encryption and storage to protect sensitive information and VMM data as well as other technical safeguards that may be required. The agreement must also contain an accountability clause of the private service provider in case of breach of terms, unauthorized disclosure and failure or malfunctioning of the VMM devices, among others.

All accredited service providers shall ensure that their VMM and ERS units must comply with the operational requirements provided herein as a prerequisite of its accreditation.

Section 18. Tamper Proof Requirement - The DA-BFAR shall ensure accredited VMM are tamper-proof i.e. are of a type and configuration that prevent the input or output of false positions, and that are not capable of being over-ridden, whether manually, electronically or otherwise. As such, Owners/ Operators cannot disconnect, hack or transmit false information through the VMM.

Furthermore, all VMM equipment shall have an official seal that will be provided by the DA-BFAR so as to preserve the security and integrity of data. For this purpose all VMM shall be located within a sealed unit that would indicate whether the unit has been accessed or tampered with.

Each unit must also be designed to be weatherproof and shockproof.

Section 19. Distress Signal. - All VMM shall have a distress signal to track the vessel's location in cases of emergency and to ensure safety of life at sea which must be transmitted to the DA-BFAR

Such distress signal shall be transmitted simultaneously and must be picked up by the Philippine Coast Guard (PCG) as well as other concerned government agencies, as well as other vessels in the area which can pick up the frequency of the distressed vessel. VMM units shall not be accredited without a corresponding distress signal feature.

Section 20. Transmission of Data – All VMM and ERS devices shall be turned on at all times.

Each VMS shall transmit through satellite to the FMC the position, course and speed of the vessels at any given time, as well as any emergency distress signals that might originate and other information required by the DA-BFAR.

Non-satellite VMM for commercial fishing vessels shall transmit the position, course and speed of the vessels at any given time, as well as any emergency distress signals that might originate and other information required by the DA-BFAR, over a frequency or data channel to the FMC.

All data transmitted must be encrypted and secured by the provider to ensure the integrity of the transmissions.

Section 21. Frequency of Reporting. - Fishing vessels shall keep their VMM activated at all times and shall be required to report its positions to the FMC at least 24 times or more per day. For ERS, fishing vessels are required to provide/transmit one vessel activity or more per day if necessary or for every vessel activity that results into catch to the FMC.

Section 22. Operational Performance. – All units deployed must be certified as meeting the minimum standards set by the DA-BFAR. For this purpose, all VMM units shall be accredited by the DA-BFAR and must be inspected upon registration/ renewal of license to ensure operational performance and installation in accordance with Section 11.

Section 23. Inoperability of Units. - In the event of a technical failure or non-functioning of the VMM on board the fishing vessel, the Master or Operator shall communicate this immediately to the FMC within 5 days from return to port.

In the interim upon technical failure/ non-functioning until return to port, the Master or Operator is required to conduct manual reporting every 4 hours by transmitting their positions through other communication channels (e.g. radio, phone, email, etc.) until the fishing vessel is docked and the failure reported to the DA-BFAR.

The unit must be replaced with an accredited VMM device which must be certified and attested to by the DA-BFAR technical inspector within one month from return to port.

Section 24. Confidentiality and Authorized Disclosure of Sensitive Technical Information. – Data from the vessel monitoring system or vessel monitoring measure and other related data arising therefrom shall be considered as sensitive technical information, except in the following instances of authorized disclosure, provided the affected party is informed of such disclosure:

- a. When officially requested by a government agency to be used as evidence for the prosecution of fishery or other offense
- b. When requested by the flag coastal or port state for its own investigation or traceability

- c. For enforcement purposes and apprehension of violating fishing vessels, data may be transmitted to relevant government agencies at the national and regional level through a prior agreement.
- d. For transparency purposes under circumstances as may be warranted by the DA-BFAR through a prior agreement.
- e. Other analogous circumstances.

CHAPTER IV

Cost and Financing of Vessel Monitoring Measures

Section 25. Cost and Financing. – The DA-BFAR shall establish the corresponding funding mechanism, costing, phasing in and roll-out of VMM to all fishing vessels.

CHAPTER V

Penalties

Section 26. Non-compliance with Vessel Monitoring Measures - No commercial or distant water fishing vessel shall engage in fishing activity without complying with the vessel monitoring measures and electronic reporting system set herein. It shall also be unlawful to intentionally tamper with, switch off or disable the vessel monitoring system.

Upon a summary finding of administrative liability, the fishing vessel owner, master or any other person acting on behalf of the vessel owner shall be punished with confiscation of catch, suspension or revocation of the license and an administrative fine equivalent to twice the value of the catch or the amount indicated below, whichever is higher:

- a. Two hundred fifty thousand pesos (P250,000.00) for small-scale commercial fishing;
- b. Five hundred thousand pesos (P500,000.00) for medium-scale commercial fishing; and
- c. Two million five hundred thousand pesos (P2,500,000.00) for large-scale commercial fishing.

Upon conviction by a court of law, the master or any other person acting on behalf of the vessel owner shall be punished with imprisonment of six (6) months to two (2) years and fine twice the amount of the administrative fine, confiscation of catch and suspension or revocation of the license.

Section 27. Unauthorized Disclosure of Sensitive Technical Information. – Any unauthorized disclosure of VMM data by any person shall be penalized with imprisonment of six (6) months and one day to six (6) years, removal from office and forfeiture of all retirement benefits, where applicable.

The DA-BFAR shall take such measures as may be necessary to protect sensitive technical information, when disclosure of such information will injure the competitiveness or viability of domestic fisheries.

CHAPTER VI

Miscellaneous Provisions

Section 28. Repealing Cause. - All existing administrative orders, rules and regulations which are inconsistent with the provisions of this Order are hereby repealed or modified accordingly

Section 29. Effectivity. - This Order shall take effect fifteen (15) days after publication in one (1) newspaper of general circulation and upon filing with the Office of the National Administrative Register.

EMMANUEL F. PIÑOL
Secretary

Recommended by:

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