



FISHERIES ADMINISTRATIVE
ORDER NO. 271
Series of 2023

SUBJECT: RULES AND REGULATIONS FOR THE PROTECTION OF CETACEANS AND WHALE SHARKS FROM PURSE SEINE AND RING NET FISHING OPERATIONS

WHEREAS, the ecological and cultural significance of cetaceans and whale sharks are universally recognized;

WHEREAS, the United Nations Food and Agriculture Organization (UN-FAO) Code of Conduct for Responsible Fisheries (CCRF) specifically addresses biodiversity issues and conservation of endangered species and calls for the catch of non-target species, both fish and non-fish species, to be minimized. Article 7.2.2d of the CCRF also calls for the sustainable use of aquatic ecosystems and requires that fishing be conducted with due regard for the environment. The CCRF further promotes the maintenance, safeguarding and conservation of biodiversity by minimizing fisheries impacts on non-target species and the ecosystem in general;

WHEREAS, the Philippines is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) which aims to ensure that international trade in specimens of wild animals and plants does not threaten the survival of the CITES listed species;

WHEREAS, as a party to the CITES, the Philippines is bounded to adopt and implement its own domestic legislation to ensure that CITES is implemented at the national level;

WHEREAS, cetaceans and whale sharks are particularly vulnerable to being encircled by purse seine and ring nets, due to the tendency of tuna to form schools around them, and cetaceans to be attracted to the same prey as tuna;

WHEREAS, Articles 5(d) and (e) of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPO), required the adoption of management arrangements for cetaceans as non-target and associated or dependent species, as they are incidentally caught by purse-seine fisheries in the WCPO.

WHEREAS, the Philippines is a contracting party to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean and member of the Western and Central Pacific Fisheries Commission (WCPFC) which is the Regional Fisheries Management Organization of the Western and Central Pacific Ocean mandated to manage straddling and highly migratory species, including tropical tunas, billfishes, sharks, marine mammal and sea turtles;

WHEREAS, as a party to the Convention and a member of the WCPFC, the Philippines is mandated to observe and implement Conservation and Management Measures (CMM) adopted by the Commission;

WHEREAS, the WCPFC adopted CMM 2011-03 on the Conservation and Management Measure for Protection of Cetaceans from Purse Seine Fishing Operations which 1) prohibits setting a purse seine net on a school of tuna associated with a cetacean if such cetacean is sighted prior to commencement of the set and 2) requires the master of the vessel to release and report the unintentional encirclement of such cetacean;

WHEREAS, the WCPFC adopted CMM 2022-04 on the Conservation and Management Measure for Sharks which prohibits setting a purse seine on a school of tuna associated with a whale shark if such whale shark is sighted prior to the commencement of the set.

NOW THEREFORE, the following provisions of this Order are hereby adopted and implemented:

SECTION 1. Definition - The terms used herein shall be construed as follows:

- 1) **Cetacean** - a marine mammal of the order *Cetacea*; a whale, dolphin, or porpoise.
- 2) **Whale shark** - a large elasmobranch of the family Rhincodontidae, of the species *Rhincodon typus* characterized externally by a broad, flattened head, a very large and nearly terminal mouth, very large gill slits, three prominent longitudinal ridges on its upper flanks, a large first dorsal fin, a semi-lunate caudal fin and a unique 'checkerboard' pattern of light spots and stripes on a dark background.
- 3) **Ring Net** - a surrounding net used for catching pelagic fishes hauled manually or by winch.
- 4) **Purse Seine** - a surrounding net used for catching pelagic fishes characterized by a bag or bunt located on one end of the net hauled by pneumatic power block.

SECTION 2. Prohibitions

All Philippine flagged fishing vessels operating in Philippine waters, in the high seas or in waters of other coastal states, are hereby prohibited from committing the following acts:

- 1) Setting a purse seine net or ring net on a school of fish associated with any species of cetacean and whale shark, if the animal is sighted prior to the commencement of the set; and
- 2) Retaining on board, transshipping, storing on a fishing vessel, or landing any cetacean or whale shark unintentionally caught or those that resulting from Section 2(1).

SECTION 3. Incident handling and reporting

In case that a cetacean or whale shark is unintentionally encircled by a purse seine or ring net, the vessel captain or masterfisher of the fishing vessel shall:

- 1) Ensure that all reasonable steps are taken to ensure its safe release. This shall include stopping the net haul and not recommencing fishing operation until the animal has been released and is no longer at risk of recapture. A training for handling and release shall be required and provided by BFAR to the crew prior to the issuance of the fisherfolk permit;
- 2) Report the incident to BFAR, including details of the species (if known) and number of individuals, location and date of such encirclement, steps taken to ensure the safe release, and an assessment of the life status of the animal on release (including, if possible, whether the animal was released alive but subsequently died). Such incident must be reported in the appropriate data field of the logsheet and captain statement/report to provide more information including photos if available and shall be submitted to BFAR within seven (7) days upon arrival in Port.
- 3) In taking steps to ensure the safe release of cetacean and whale shark as required under Section 3 (1), the vessel captain or masterfisher shall follow the guidelines provided in Attachments 1 and 2.
- 4) In applying the steps under paragraphs 1 and 3, the safety of the crew shall remain the overriding consideration.

Section 4. Penalties

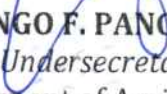
- 1) Any commercial fishing company that authorizes an individual to commit or any individual who commits any of the prohibited acts in Section 2 of this FAO shall be subject to the penalties provided for in Section 102 of R.A. No. 8550 as amended by R.A. No. 10654.
- 2) The vessel captain or the masterfisher who fails to comply with Section 3 of this FAO shall be subject to a fine of One hundred thousand pesos (P100,000.00) to Five million pesos (P5,000,000.00), depending on the volume and value of the cetacean or whale shark, and the habituality of the offender as main consideration as provided under Section 128 of R.A. No. 8550, as amended by R.A. No. 10654, provided further, that BFAR shall come up with the parameters for the purpose of evaluating the socio economic impact and seriousness of the violation as well as damage to environment due to the violation which shall be taken as part of the computation of the applicable penalties.

Section 5. Separability Clause. If any section or provision of this Order or part thereof, is declared unconstitutional or invalid, the other sections or provisions thereof which are not affected thereby shall continue to be in full force and effect.

Section 6. Repealing Clause. All existing administrative orders, rules and regulations which are inconsistent with the provisions of this Order are hereby repealed or modified.

Section 7. Effectivity. This Order shall take effect fifteen (15) days after the publication in the Official Gazette and/or in two (2) newspapers of general circulation and upon registration with the Office of National Administrative Register (ONAR).

ISSUED this 2nd day of May, 2023 at Quezon City, Metro Manila, Philippines


DOMINGO F. PANGANIBAN
Senior Undersecretary
Department of Agriculture



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