



REPUBLIC OF THE PHILIPPINES

DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT (DILG)
DEPARTMENT OF AGRICULTURE-BUREAU OF FISHERIES AND AQUATIC RESOURCES
(DA-BFAR)

JOINT MEMORANDUM CIRCULAR (JMC) NO.: 2018-03

Date: November 28, 2018

SUBJECT: GUIDELINES ON STRENGTHENING THE IMPLEMENTATION OF THE BAN ON
BOTTOM TRAWL OPERATIONS WITHIN MUNICIPAL WATERS

1.0 BACKGROUND

- 1.1 Bottom trawl is an active fishing gear consisting of a bag shaped net with or without otter boards to open its opening which is dragged or towed along the bottom to take fishery species by straining them from the water. A non-selective fishing method, bottom trawling catches everything it comes into contact with, including juvenile fish, spawners, non-commercially valuable species, endangered, threatened and protected marine species, and other marine organisms, contributing to overexploitation and overfishing;
- 1.2 Bottom trawling causes disturbances to the seabed as gears are towed on the sea bottom - altering, removing, or destroying the complex structure of benthic habitats, through direct removal of biological and topographic features;
- 1.3 Bottom trawling also causes socioeconomic impacts as it creates sources of conflict with other fisheries by displacing or destroying other legitimate fishing gear;
- 1.4 In accordance with Section 95 of Republic Act (R.A.) No. 10654 otherwise known as the Act to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing, amending Republic Act No. 8550, active gear such as bottom trawl is banned from operating within 15 kilometers from the coastline which, by law and as a matter of equity, is reserved for municipal fishers (Sec. 95 in relation to Sec. 4(44), Fisheries Code of the Philippines).
- 1.5 Despite the prohibition, however, there is still a proliferation of bottom trawlers within municipal waters in various parts of the country, highlighting the need to strengthen the implementation of the ban of bottom trawl operations within municipal waters.

2.0 PURPOSE

- 2.1 The purpose of this policy issuance is to clarify roles and responsibilities of the LGUs, DILG and BFAR to conserve, and protect municipal waters from the adverse ecological, and socioeconomic impacts of bottom trawl operations for the benefit of municipal fisherfolk.
- 2.2 This policy issuance also seeks to align the programs and mandates of the different government agencies concerned, in view of strengthening the implementation of the ban

on bottom trawl, and serves as a reminder to concerned agencies and LGUs to ensure its seamless implementation.

2.3 Specifically, this policy issuance seeks to attain the following objectives:

- 2.3.1 LGUs to review and adopt Municipal Fisheries Ordinances (MFOs) ensuring the effective ban on bottom trawl;
- 2.3.2 Coordinate NGAs and LGUs in the exercise of their mandate under law;
- 2.3.3 Encourage voluntary surrender of trawling gears and paraphernalia;
- 2.3.4 Prevent and eliminate trawling operations within municipal waters;
- 2.3.5 Ensure food security and sustainability within municipal waters by implementing the ban on trawling operations;

3.0 SCOPE AND COVERAGE

3.1 This policy issuance shall cover all cities and municipalities in the Philippines and directed to all, City and Municipal Mayors, *Sanggunians* at all levels, Municipal and City Fisheries and Aquatic Resources Management Councils (M/CFARMCs), Municipal Agriculture Officers (MAOs), Public Employment and Service Officers (PESOs) or their equivalent, and others concerned.

4.0 LEGAL COMPLIANCE

4.1 Section 16 of Republic Act No. 8550, otherwise known as the Philippine Fisheries Code, as amended by R.A. No. 10654, provides that the municipal/city government shall have jurisdiction over municipal waters and, in consultation with the Fisheries and Aquatic Resources Management Councils (FARMCs) and shall be responsible for the management, conservation, development, protection, utilization, and disposition of all fish and fishery/aquatic resources within their respective municipal waters.

In line with this, the municipal/city government, in consultation with the FARMC, shall enact appropriate ordinances in accordance with the National Fisheries Policy and shall enforce all fishery laws, rules and regulations, and fishery ordinances enacted by the city/municipality council;

4.2 Section 16 of the Local Government Code, Republic Act 7160 provides that every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall, among others, enhance the right of the people to a balanced ecology, enhance economic prosperity, and promote full employment among their residents.

4.3 Section 95 of the Philippine Fisheries Code, as amended, provides that it shall be unlawful to engage in fishing in municipal waters and in all bays as well as other fishery management areas using active fishing gears as defined in the Philippine Fisheries Code, as amended;

4.4 Section 4, No. 44 of the amended Fisheries Code defines active gear as 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.

4.4.1 Rule 95.2 of the Implementing Rules and Regulations (Department Order No.10, s. of 2015) of the Fisheries Code of the Philippines does not identify bottom trawls as part of the exceptions of the active gear classification; and

4.4.2 DA-BFAR Fisheries Administrative Order No. 201, s. of 2000 provides that active fishing gears, specifically trawls of all kinds, whether municipal or commercial, are banned to be utilized within municipal waters.

5.0 DEFINITION OF TERMS

For purposes of this policy, the following definitions apply, unless otherwise stated:

5.1 *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:

5.1.1 Small scale commercial fishing – fishing with passive or active gear utilizing fishing vessels of 3.1 gross tons (GT) up to twenty (20) GT;

5.1.2 Medium scale commercial fishing – fishing utilizing active gears and vessels of 20.1 GT up to one hundred fifty (150) GT; and

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

5.2 *Fisherfolk* – people directly or personally and physically engaged in taking and/or culturing and processing fishery and/or aquatic resources.

5.3 *Fishing Gear* – refers to any instrument or device and its accessories utilized in taking fish and other fishery species.

5.3.1 *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.

5.3.2 *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.

5.4 *Fish worker* – a person regularly or not regularly employed in commercial fishing and related industries, whose income is either in wage, profit-sharing or stratified sharing basis, including those working in fish pens, fish cages, fish corrals/traps, fishponds, prawn farms, sea farms, salt beds, fish ports, fishing boat or trawlers, or fish processing and/or packing plants. Excluded from this category are administrators, security guards and overseers.

5.5 *Municipal fisherfolk* – persons who are directly or indirectly engaged in municipal fishing and other related fishing activities.

5.6 *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.

5.7 *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) kilometers from such coastline. Where two (2) municipalities are so 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.

5.8 *Trawl* – an active fishing gear consisting of a bag shaped net with or without otter boards to open its opening which is dragged or towed along the bottom or through the water column to take fishery species by straining them from the water, including all variations and modifications of trawls (bottom, mid-water, and baby trawls) and tow nets.

5.8.1 *Baby Trawls* –trawls deployed by municipal vessels or boats of less than three gross tons are called baby trawls and are locally called *karkar, kagkag, galadgad, kuto-kuto, taksay* and others and are mostly used to target shrimp and prawn (see Annex 1 for List of local names of trawl per region);

5.8.2 *Bottom trawls* - an active fishing gear consisting of a bag shaped net with or without otter boards to open its opening which is dragged or towed along the bottom to take fishery species by straining them from the water.

6.0 POLICY CONTENT AND GUIDELINES

6.1 On the Creation of a National Technical Working Group (TWG)

6.1.1 The DA-BFAR and the DILG shall create a National Technical Working Group to effectively facilitate the coordination among concerned government agencies and other stakeholders involved towards the efficient implementation of the ban on bottom trawl;

6.1.2 The director of DA-BFAR, as the government agency with the responsibility and jurisdiction in the management, conservation, development, protection, utilization, and disposition of all fisheries and aquatic resources of the country, and a director from the DILG, as the government agency which assists the President in the exercise of general supervision over LGUs, shall serve as co-chairpersons of the TWG, and shall undertake the following roles and functions:

6.1.2.1 Oversee the activities of the TWG to enforce the policy content and guidelines of this JMC;

6.1.2.2 Initiate and formulate policy recommendations to further improve the implementation of the ban on bottom trawl;

6.1.2.3 Review existing policies and recommend appropriate action, if necessary;

6.1.2.4 Monitor and evaluate the status of implementation of the ban on bottom trawl;

6.1.2.5 Regularly convene the members of the body and initiate policy consultations; and

6.1.2.6 Provide Secretariat support, record, and document proceedings of the meetings.

6.1.3 The DA-BFAR and the DILG, as the co-chairs of the National Technical Working Group shall form part of all the respective sub-committees and shall coordinate with all the concerned government agencies involved.

6.1.4 The TWG shall be composed of members from the government sector, and other stakeholders, composed of the following committees:

6.1.4.1 Steering Committee

a. Department of Agriculture – Bureau of Fisheries and Aquatic Resources (DA-BFAR);

- b. Department of Interior and Local Government (DILG);
- c. People's Organization (PO) representative to the National Fisheries and Aquatic Resources Management Council (NFARMC);
- d. Non-government Organization (NGO) representative

6.1.4.2 Sub-committee on Employment and Livelihood, which shall facilitate the provision of livelihood assistance, employment and training for affected fisherfolk, in accordance with their existing programs, guidelines and regulations.

- a. Department of Social Welfare and Development (DSWD);
- b. Department of Labor and Employment (DOLE);
- c. Department of Trade and Industry (DTI);
- d. Department of Tourism (DOT);
- e. Technical Education and Skills Development Authority (TESDA)

6.1.4.3 Sub-committee on Law Enforcement, which shall facilitate coordination among different government agencies towards the enforcement of the ban on bottom trawling within municipal waters.

- a. Philippine Coast Guard (PCG)
- b. Philippine National Police – Maritime Group (PNP-MG)

6.1.4.4 Sub-committee on Resource Rehabilitation, which shall provide technical assistance to local governments and communities to rehabilitate ecosystems damaged by bottom trawling.

- a. Department of Environment and Natural Resources (DENR)

6.2 On the Mandates of Local Government Units (LGUs). All coastal cities/municipalities shall undertake the following:

6.2.1 Policy

6.2.1.1 Review and adopt Municipal Fisheries Ordinances (MFO) containing updates from the Fisheries Code, as amended, and which shall include the following provisions:

- a. Collaboration with DA-BFAR in seeking assistance in terms of fishery law enforcement; and
- b. Filing of fishery-related administrative cases before the Adjudication Committee, and other fisheries cases in other bodies;

6.2.2 Law Enforcement

6.2.2.1 Exercise primary jurisdiction to enforce fishery laws and policies in their respective localities;

6.2.2.2 Coordinate with the DA-BFAR on the deputation of fish wardens and other fishery law enforcement officers;

6.2.2.3 Share pertinent data and information to the DA-BFAR and other enforcement agencies, such as, but not limited to reports from *Bantay Dagat*, apprehension reports, etc.;

- 6.2.2.4 Conduct enforcement operations in accordance with the field guide for inter-agency fishery law enforcement;
- 6.2.2.5 Impound and confiscate illegal gear and paraphernalia.

6.2.3 Livelihood Assistance

- 6.2.3.1 Assess and map livelihood needs of fisherfolk affected by the implementation of bottom trawl ban. The results of which shall form part of the City/ Municipal Ecological Profile to be used as basis in the actual identification of programs, projects and activities to be included in the LGU's Comprehensive Development Plan.
- 6.2.3.2 Ensure the inclusion of alternative livelihood programs in the City/ Municipal Comprehensive Development Plan specifically targeting affected fishers;
- 6.2.3.3 Initiate and provide assistance through alternative livelihood programs for affected fisherfolk;
- 6.2.3.4 Conduct an evaluation using a rapid assessment tool¹ to assess the impact of the livelihood programs and initiatives provided to affected fishers;
- 6.2.3.5 Coordinate and provide support to appropriate agencies for the effective implementation of this Circular.

6.3 On the Mandates of Concerned National Government Agencies (NGAs)

6.3.1 The *Department of Interior and Local Government (DILG)* shall undertake the following:

- 6.3.1.1 Issue related policies and guidelines, if necessary, for the strengthened implementation of the ban on bottom trawls within municipal waters;
- 6.3.1.2 Coordinate with LGUs on the enforcement of the operation of bottom trawling in municipal waters;
- 6.3.1.3 Monitor compliance of LGUs through a compliance audit on law enforcement and the prohibition of the use of active gear such as bottom trawl in their municipal fisheries ordinances (MFOs).

6.3.2 The *Department of Agriculture-Bureau of Fisheries and Aquatic Resources (DA-BFAR)* shall undertake the following:

- 6.3.2.1 Law Enforcement
 - a. Provide law enforcement assistance to the LGUs, pursuant to the Fisheries Code, as amended;
 - i. Arrange availability of floating assets such as patrol boats to the LGUs, upon request;
 - ii. Coordinate with the LGUs in capacity building of fish wardens and other fishery law enforcers, and provide proper and adequate training of *Bantay Dagat* volunteers in fisheries concerns;
 - iii. Provide legal support in the form of knowledge or skills development for *Bantay Dagat* volunteers and other fishery law enforcers upon request of the LGUs;

¹ Template to be formulated by the TWG

- 6.3.2.2 Administrative Adjudication
 - a. Hear and decide administrative cases filed for fisheries law violations within municipal waters filed before the Adjudication Committee;
- 6.3.2.3 Technical Assistance
 - a. Provide technical assistance to LGUs on concerns related to decommissioning of trawl gear, alternative gear options and other fishery-related concerns;
 - b. Provide technical assistance for scientific research in LGUs regarding appropriate fisheries management measures and gear allocation;
 - c. Provide incentives to compliant LGUs pursuant to DA-BFAR award and recognition programs;
- 6.3.2.4 Livelihood Assistance
 - a. Provide livelihood assistance to municipal fisherfolk, pursuant to existing DA-BFAR programs.

6.4 Guidelines on the Decommissioning of Bottom Trawl Gear and Paraphernalia

- 6.4.1 The LGU shall ensure that persons, associations, cooperatives, partnerships, or corporations engaged in bottom trawling within municipal waters shall decommission and surrender their gear to the LGU.
- 6.4.2 Bottom trawlers caught operating within municipal waters shall be immediately apprehended, filed with appropriate charges and will forfeit access to the livelihood assistance provided herein.
- 6.4.3 The process for voluntary surrender of trawling gear and paraphernalia for municipal fisherfolk affected by the JMC is as follows:
 - 6.4.3.1 All bottom trawl gear and paraphernalia will be surrendered to the respective Municipal Agriculture Office (MAO) of the LGU
 - 6.4.3.2 The MAO will record and issue the following documents:
 - a. Certification of the surrender of the gears with a corresponding waiver in favor of the LGU for its disposition; and an undertaking that he/she will not commit any illegal fishing activity, and in case he/ she violates the undertaking, criminal charges will be filed against him/her.
 - b. Endorsement from the LGU for application to livelihood assistance from the LGU, DA-BFAR or other government agencies.
 - 6.4.3.3 Upon surrender, the LGU shall have custody and disposition of the surrendered gear
 - 6.4.3.4 The MAO will process the application for livelihood assistance and endorse the application to the proper office, in accord with the LGU's Development and Livelihood Plan
 - a. If the applicant is assigned to remain in the fisheries sector in accordance with existing fisheries management measures, the MAO shall endorse the application to the Provincial Fisheries Office (PFO) or its equivalent, for provision of legitimate fishing gear or fisheries-related livelihood assistance for the applicant.
 - b. If the applicant is assigned to avail of other forms of livelihood assistance from other NGAs, the MAO shall endorse the application to the LGU's Public Employment Service Office

- (PESO) or its designated equivalent, for provision of other forms of livelihood assistance or training from other NGAs.
- 6.4.3.5 While processing the application for alternative livelihood in accordance with the next Section, the affected fisherfolk may avail of the social safety net programs of the DOLE and DWSD through the PESO, subject to the guidelines of the said agencies' programs.
- 6.4.4 Provided that, any applicant who wishes to avail of the aforementioned services must be a registered fisherfolk in the LGU.

6.5 Provision of Livelihood Assistance

- 6.5.1 In accordance with the City/ Municipal Comprehensive Development Plan and its corresponding Annual Investment Program (AIP) and annual budget, the provision of livelihood assistance shall extend to municipal bottom trawl fishers, operators, crew or fish workers of municipal bottom trawl vessels, as long as they register as fisherfolk in the LGU.
- 6.5.2 Upon endorsement of a valid application of the MAO to the LGU, PFO or PESO or its equivalent for livelihood assistance, the appropriate government agency shall provide assistance to livelihood, employment or training, subject to the rules and guidelines of each of their respective programs.
- 6.5.2.1 Livelihood Assistance by LGUs
- a. LGUs shall provide support to municipal fisherfolk through but not limited to training for additional/supplementary livelihood.
- 6.5.2.2 Livelihood Assistance by the DA-BFAR
- a. DA-BFAR shall provide support to municipal fisherfolk through appropriate fisheries-related livelihood considering management measures in place, in accordance with the DA-BFAR rules and guidelines.
- 6.5.2.3 Livelihood Assistance by other national government agencies (e.g. DA, DSWD, DOLE, DTI, DOT, TESDA, etc.)
- a. The appropriate government agency shall provide support to municipal fisherfolk through livelihood, employment or training assistance programs; subject to the rules, guidelines and criteria of the programs of each respective government agency.

6.6 Research

- 6.6.1 In accordance with the amended Fisheries Code, EO 305 and DILG Memorandum Circular 2018-59, LGUs shall ensure that they have an updated database of all municipal fisherfolk through the municipal fisherfolk registration program (FishR), and fishing vessels and gears, through the municipal fishing vessel and gears registration program (BoatR);
- 6.6.2 LGUs, through the MAO, shall create an inventory of registered or unregistered fisherfolk that have been identified and validated by LGUs as bottom trawlers within their jurisdiction as basis for the LGU's programs under its Comprehensive Development Plan;

- 6.6.3 The members of the national TWG shall have access to the summary report of the number of trawl fishers in each LGU and regions as basis for their respective program allocation.

6.7 Information, Education, and Communication (IEC)

- 6.7.1 LGUs, the DA-BFAR and the DILG shall facilitate Information, Education and Communication (IEC) activities for the JMC with the LGUs
- 6.7.2 Concerned government agencies, interested non-government organizations (NGOs), academe and civil society organizations (CSOs) may conduct IEC campaigns to disseminate, mainstream the provisions of this Circular

6.8 Accountability of Public Officers

- 6.8.1 All public officers who violate or fail to comply with the provisions of this Circular, or issue inconsistent policies, or wilfully or grossly neglect the performance of a duty, or abuse authority in the performance of duty, are susceptible to Citizens Suits under Sec. 138 of Republic Act 10654.

7.0 PENAL PROVISION

- 7.1 Corresponding administrative and criminal cases against bottom trawlers caught operating in municipal waters shall be filed accordingly by the LGU, in accordance with R.A. No. 10654 which amended R.A. No. 8550;
- 7.2 In accordance to Section 95 of R.A. No. 10654, upon a summary finding of administrative liability, 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 shall be punished with confiscation of the catch and fishing gears, and a fine three (3) times the value of the catch or the value indicated below, whichever is higher:
- 7.2.1 Twenty thousand pesos (P20,000.00) for municipal fishing: *Provided*, that if the offender fails to pay the fine, he shall render community service;
- 7.2.2 Fifty thousand pesos (P50,000.00) for small-scale commercial fishing;
- 7.2.3 One hundred thousand pesos (P100,000.00) for medium-scale commercial fishing; and
- 7.2.4 Five hundred thousand pesos (P500,000.00) for large-scale commercial fishing.

Upon conviction by a court of law, the offender shall be punished with imprisonment of two (2) years to six (6) years and fine equivalent to twice the administrative fine, confiscation and forfeiture of fishing gear and catch.

8.0 REFERENCES

- 8.1 Republic Act No. 10654 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;
- 8.2 Republic Act No. 7160 The Local Government Code of the Philippines
- 8.3 DA-Administrative Order No.10, s. of 2015 The Implementing Rules and Regulations of Republic Act No. 8550, as Amended by Republic Act. No. 10654;
- 8.4 DA-Fisheries Administrative Order No. 201, s. of 2000 Ban of Fishing with Active Gear; and
- 8.5 DILG Memorandum Circular No. 2018-59 Policies and Guidelines on the Regulation and Monitoring of Fishery Activities in Municipal Waters; and
- 8.6 E.O. 262 s. of 1987 Reorganizing the Department of Local Government and for other Purposes

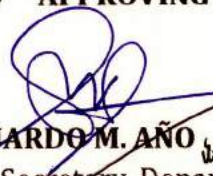
9.0 REPEALING CLAUSE

All orders, rules, and regulations inconsistent or contrary to the provisions of this Joint Memorandum Circular are hereby repealed or modified accordingly

10.0 EFFECTIVITY

This Joint Memorandum Circular shall take effect immediately upon posting in the DILG and DA-BFAR website.

11.0 APPROVING AUTHORITY


EDUARDO M. AÑO
OIC-Secretary, Department of the Interior and Local Government (DILG)




EMMANUEL F. PIÑOL
Secretary, Department of Agriculture (DA)



11.0 FEEDBACK

For related queries, kindly contact the Bureau of Local Government Supervision at Tel No. 876-3454 local 4210 or 4211, or at email address blgspcmd@gmail.com

Annex 1 Table of local names of trawl in various regions and areas

<i>Region/ Area</i>	<i>Local Name</i>
Region 1 (Lingayen Gulf)	<i>Karkar, kagkag</i>
Region 2	Trawl
Region 3 (Manila Bay)	Trawl
Region 4 (Manila Bay, Palawan/ Sulu Sea)	Trawl
Region 5 (San Miguel Bay, Ragay Gulf)	<i>Galadgad, kuto-kuto, koto-koto</i>
Region 6 (Visayan Sea, Guimaras Strait)	<i>Palupad, trawl</i>
Region 8 (Samar Sea, Maqueda Bay, Carigara Bay)	Trawl
Region 9 (Moro Gulf)	Palupad
NCR (Manila Bay)	Trawl