



Republic of the Philippines  
**DEPARTMENT OF LABOR AND EMPLOYMENT**  
Intramuros, Manila



DEPARTMENT OF LABOR AND EMPLOYMENT  
Administrative Service Central Records Section 332

DATE: 15 JUN 2016  
TIME: 9:40  
RECEIVED BY: TINA

DEPARTMENT ORDER NO. 156-16  
Series of 2016

**RULES AND REGULATIONS GOVERNING THE WORKING AND LIVING  
CONDITIONS OF FISHERS ON BOARD FISHING VESSELS ENGAGED IN  
COMMERCIAL FISHING OPERATION**

Pursuant to the authority of the Secretary of Labor and Employment to promulgate the necessary rules and regulations under Articles 5 and 168<sup>1</sup> of the Labor Code of the Philippines, as amended, and the Administrative Code of 1987, as amended, this rules and regulations is hereby issued:

**RULE I**  
**General Provisions**

**Section 1. Policy Statement.** - It is a State policy to:

- a. Regulate the relations between workers and employers recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investment and to expansion and growth;
- b. Guarantee and respect the free exercise of the commercial fishing workers to form union and organize for collective bargaining and/or for their mutual aid and protection; and
- c. Ensure that fishing vessels are sea-worthy and compliant with the standards of safety of life at sea, safe manning requirements and occupational safety and health standards under applicable laws and regulations.

**Section 2. Coverage.** - This Rules shall apply to fishing vessel owners, fishers and captains or masters on board Philippine-registered fishing vessels engaged in commercial fishing operation in Philippine or international waters, except in the following:

- a. Those on board commercial fishing vessels with foreign registry, which shall be governed by applicable rules and regulations of the POEA;
- b. Those engaged in municipal fishing, which shall be governed by existing labor, fishery, maritime, and local government laws, rules and regulations; and
- c. Those on board fishing vessels engaged in subsistence or recreational fishing.

**Section 3. Definition of Terms.** - For purposes of this Rules:

- a. **Captain or Master** refers to the person having command of a fishing vessel;<sup>2</sup>
- b. **Certificate of Compliance (COC)** refers to the certificate issued by the

<sup>1</sup> Former article 162.

<sup>2</sup> Section 4(27), Implementing Rules and Regulations of Republic Act No. 10635.

- DOLE Regional Director to a labor-law compliant establishment, which shall be valid for two years.<sup>3</sup>
- c. **Commercial Fishing** means the taking of fishery species from their wild state or habitat by passive or active gear for trade, business or profit beyond subsistence or recreational/sports fishing.<sup>4</sup>
  - d. **Field Personnel** refers to non-agricultural employees who regularly perform their duties away from the principal or branch office or place of business of the employer and whose time and performance is unsupervised by the fishing vessel owner or whose actual hours of work in the field cannot be determined with reasonable certainty.<sup>5</sup>
  - e. **Fishing Vessel Owner** means one who owns the vessel.
  - f. **Fisher** means any person engaged in any capacity for carrying out an occupation on board a commercial fishing vessel, but excludes shore-based persons carrying out work on board a fishing vessel.<sup>6</sup>
  - g. **Fishing Vessel** means any ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for taking of fishery species or aiding or assisting one 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.<sup>7</sup>
  - h. **Gross Tonnage** pertains to the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969,<sup>8</sup> or any instrument amending or replacing it.
  - i. **Industrial Partner** refers to a natural person who entered into a contract of partnership pursuant to the applicable provisions of Title IX of the New Civil Code.
  - j. **Joint Venture** refers to an association of persons or companies jointly undertaking some commercial enterprise; generally all contribute assets and share risks. It requires a community of interest in the performance of the subject matter, a right to direct and govern the policy in connection therewith, and duty, which may be altered by agreement to share both in profit and losses.<sup>9</sup>
  - k. **Labor Standards** means the minimum requirements prescribed by existing laws, rules and regulations and other issuances relating to wages, hours of work, allowances and other monetary and welfare benefits, including those set by occupational safety and health standards.<sup>10</sup>
  - l. **Minimum Wage** means the wage rate that a fishing vessel owner shall pay the fisher pursuant to the appropriate Wage Order issued by the Regional Tripartite Wages and Productivity Board.
  - m. **Municipal Fishing** means fishing within municipal waters.
  - n. **Municipal Waters** include not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the

<sup>3</sup> Department Order No. 131, Series of 2013

<sup>4</sup> Section 4(10), Republic Act No. 8550.

<sup>5</sup> Article 82, Labor Code; Mercidar Fishing Corporation vs. NLRC, G.R. No. 112574, October 8, 1998.

<sup>6</sup> Enhanced definition of fisherfolk and fish worker under Sections 10(28) and 10(44), Republic Act No. 8550.

<sup>7</sup> Section 4(41), Republic Act No. 8550.

<sup>8</sup> DOLE Department Order Nos. 129 and 132, Series of 2013.

<sup>9</sup> Kilosbayan, Inc. v. Guingona, 232 SCRA 110, 143-144, 41 SCAD 671 (1994), citing Black's Law Dictionary.

<sup>10</sup> Department Order No. 131, Series of 2013.

protected areas as defined under Republic Act No. 7586,<sup>12</sup> 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 inlands 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.<sup>13</sup>

- o. **Notice of Results** refers to the accomplished form issued by Labor Laws Compliance Officers indicating the results of Joint Assessment, Compliance Visit, Occupational Safety and Health Standards Investigation, or Special Assessment/Visit of Establishments.<sup>14</sup>
- p. **Occupational Safety and Health Standards** is a set of mandatory and minimum rules on occupational safety and health.
- q. **Partnership** refers to two or more persons who bind themselves to contribute money, property, or industry to a common fund, with the intention of dividing the profits among themselves.<sup>15</sup>
- r. **Productivity-Based Pay** refers to an additional compensation on top of the minimum wage in the form of productivity/performance bonus or incentive given to fish workers in recognition of their individual or group performance, value of their effort in attaining production and/or profit target, or criteria that will be determined and agreed upon by labor and management.
- s. **Recreational Fishing** generally includes fishing by individuals from boats or from the shore, in salt or fresh water, for purposes of sport and not for profit derived from the catch.<sup>16</sup>
- t. **Subsistence Fishing** is where the fish caught are primarily intended to be shared and consumed by the families and kin of fishers.<sup>17</sup>
- u. **Single-Entry Approach (SEnA)** refers to the speedy, impartial and inexpensive proceedings through conciliation-mediation where parties are given the opportunity to settle amicably pursuant to DOLE Department Order No. 151-16, Series of 2016 and Republic Act No. 10396.

**Section 4. Classification of Commercial Fishing.** - For the application of the compensation scheme and occupational safety and health standards for fishing vessels under this Rules, the following classification of commercial fishing operation is hereby adopted:

- a. **Small-Scale Commercial Fishing** means fishing with passive or active gear utilizing fishing vessels of 3.1 gross tonnage up to 20 gross tonnage.
- b. **Medium-Scale Commercial Fishing** means fishing utilizing active gears and vessels of 20.1 gross tonnage up to 150 gross tonnage.
- c. **Large-Scale Commercial Fishing** means fishing utilizing active gears and vessels of more than 150 gross tonnage.

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<sup>12</sup> The National Integrated Protected Areas System Act of 1992.

<sup>13</sup> Section 4(58), Republic Act No. 8550

<sup>14</sup> Department Order No. 131, Series of 2013.

<sup>15</sup> Article 1767, New Civil Code.

<sup>16</sup> Handbook for Improving Living and Working Conditions On Board Fishing Vessels.

<sup>17</sup> *Ibid.*

## **RULE II**

### **Responsibilities of Fishing Vessel Owner, Captain or Master, and Fisher**

**Section 1. Responsibilities of Fishing Vessel Owner.** - The fishing vessel owner shall ensure that:

- a. Fishing is undertaken in accordance with existing laws, rules and regulations, and international agreements;
- b. Fishing vessel is seaworthy;
- c. Fishing vessel possesses licenses, permits and registrations from appropriate government agencies to undertake commercial fishing;
- d. Fishing vessel carries a crew list, a copy of which shall be provided to the PCG prior to the departure of the vessel;
- e. Captain or master possesses the necessary permits and licenses from appropriate government agencies;
- f. Captain or master is provided with necessary resources to undertake a specific fishing voyage, which shall include medicines and/or emergency medicines, medical equipment or facilities, survival kits and equipment;
- g. Fishers have appropriate fish-worker license from BFAR;
- h. Fishers on board have received basic safety and health, life-saving and survival training and provided specific instructions; and
- i. Fishers possess the minimum requirements for employment on board fishing vessels as provided under Rule III.

**Section 2. Responsibilities of Captain or Master.** - The captain or master has the responsibility to ensure the safety, health and well-being of fishers on board and compliance with safety of navigation, protection of the environment and watch keeping.

The captain or master shall be given sufficient discretion to take necessary action for the safety of the vessel and the fishers on board during navigation/operation or whenever work is being performed on board.

**Section 3. Responsibilities of Fishers.** - Fishers shall comply with the lawful orders of the captain or master and other applicable safety and health measures. Fishers shall attend occupational safety and health training and skills enhancement trainings organized/facilitated by the fishing vessel owner.

**Section 4. Employer-Employee Relationship in Commercial Fishing Operation.** - The existence of employer-employee relationship shall be determined by the four-fold test adopted by jurisprudence, to wit:<sup>17</sup>

- a. Selection and engagement of the employee;
- b. Payment of wages;
- c. Power of dismissal; and
- d. Employer's power to control the employee with respect to the means and methods by which the work is to be accomplished.

The following circumstances may be taken in aid of determining employer-employee relations taking into consideration the whole economic activity in which the

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<sup>17</sup> "Brotherhood" Labor Unity Movement of the Philippines, *et al.* vs. Zamora, G.R. No. 48645, January 7, 1987 and reiterated in Continental Marble Corporation, *et al.* vs. NLRC, G.R. No. 43825, May 9, 1988 and Sevilla vs. Court of Appeals, G.R. No. 44182-3, April 15, 1988.

fisher is engaged: (1) the extent to which the services performed are an integral part of the employer's business; (2) the extent of the worker's investment in equipment and facilities; (3) the nature and degree of control exercised by the employer; (4) the worker's opportunity for profit and loss; (5) the amount of initiative, skill, judgment or foresight required for the success of the claimed independent enterprise; (6) the permanency and duration of the relationship between the worker and the employer; or (7) the degree of dependency of the worker upon the employer for his/her continued employment within the fishing activity of the latter.<sup>19</sup>

**Section 5. Joint and Solidary Liability.** - The captain or master, agent, or other natural or juridical person who either financed the acquisition of the fishing vessel, provided provisions for the voyage, or assumed the responsibility for the operation of the vessel from the owner, and who, in assuming such responsibility, has agreed to take-over the duties and responsibilities imposed on the fishing vessel owner, regardless of whether any other organization or person fulfills certain duties or responsibilities on behalf of the fishing vessel owner, shall be jointly and solidarily liable with the fishing vessel owner.

**Section 6. Contracting/Subcontracting.** - When the elements of contracting/subcontracting are present, the provisions of DOLE Department Order No. 18-A, Series of 2011, shall govern.

**Section 7. Recruitment and Placement.** - DOLE Department Order No. 141, Series of 2014<sup>20</sup> shall govern the recruitment and placement of fishers.

### **RULE III**

#### **Minimum Requirements for Work On-board Fishing Vessels**

**Section 1. Minimum Age.** - The minimum age for assignment to activities on-board commercial fishing vessels, which by their nature or circumstances in which they are carried out are likely to jeopardize the health, safety or morals of young persons, shall not be less than eighteen (18) years.<sup>21</sup>

**Section 2. Medical Examination.** - No fisher shall work on board a fishing vessel without a valid medical certificate issued by a public health facility or any medical facility duly accredited by the DOH for that purpose and in accordance with its existing rules and regulations. The medical certificate shall be valid for a maximum period of one (1) year. If the period of validity of a certificate expires during the course of the voyage, the same shall be deemed valid until the end of the voyage.

**Section 3. Training.** - Fishers shall be provided with adequate specific instructions and applicable basic safety and health training.

### **RULE IV**

#### **Terms and Conditions of Employment**

**Section 1. Employment Agreement.** - There shall be an employment agreement in a language or dialect comprehensible to the latter, governing fisher's living and working conditions on-board commercial fishing vessel, containing, among

<sup>19</sup> Test of Economic Dependency. See Angelina Francisco vs. NLRC, G.R. No. 170087 August 31, 2006.

<sup>20</sup> Revised Rules and Regulations Governing Recruitment and Placement for Local Employment.

<sup>21</sup> Section 3, Rule XII of Implementing Rules of Book III of the Labor Code, in relation to Republic Act No. 7610, as amended by Republic Act No. 9231.

others, the following particulars:

- a. Fisher's full name, date of birth or age, sex, address, civil status and SSS, PhilHealth and Pag-Ibig identification numbers;
- b. The name of the fishing vessel owner or other party to the agreement with the fisher, including their addresses;
- c. Place where and date when the employment agreement is entered into;
- d. Name of the fishing vessel and its registration number in which the fisher undertakes to work;
- e. Voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- f. Capacity in which the fisher is to be employed or engaged;
- g. Place where and date when the fisher is required to report on board for service;
- h. Provisions to be supplied to the fisher;
- i. Compensation structure composed of wage, mandatory wage-related benefits, and productivity/performance-based pay;
- j. Hours of work;
- k. Leave benefits;
- l. Health and social security benefits;
- m. Separation and retirement pays; and
- n. Other benefits as provided under existing laws.

A sample employment agreement (Annex I) is attached to this Department Order as reference. The DOLE Regional Offices are encouraged to translate said agreement to a local dialect to facilitate understanding of parties thereto.

Fishers shall be issued with a Certificate of Employment showing the nature and duration of his/her employment.

**Section 2. Submission to the DOLE.** - The employment agreement shall be submitted to the DOLE Regional Office or its Field Office having jurisdiction over the port of registration or principal place of business of the fishing vessel owner. The fishing vessel owner shall provide the fisher with a copy of the aforementioned employment agreement and another copy shall be carried on board.

**Section 3. Minimum Benefits.** - Fishers shall be entitled to the following benefits:

- a. Minimum wages to be given in accordance with Section 5 of the succeeding Rule;
- b. Holiday pay of 100 percent of the minimum wage, for twelve (12) regular holidays pursuant to Republic Act No. 9849<sup>22</sup> and 200 percent of the minimum wage if they are required to work on said holiday;
- c. An additional premium pay of thirty (30) percent of their basic wage if they are required to work on a rest day, an additional premium pay of thirty (30) percent of their basic wage if they are required to work on a special days under Republic Act No. 9849, and an additional premium pay of fifty (50) percent of their basic wage whenever work is performed on a rest day, which happens to be also a special day;
- d. Overtime pay equivalent to at least twenty-five (25) percent of their basic

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<sup>22</sup> An Act Declaring the Tenth Day of ZhulHijja, the Twelfth Month of the Islamic Calendar, a National Holiday for the Observance of EidulAdha, Further Amending for the purpose Section 26, Chapter 7, Book 1 of Executive Order No. 292, otherwise known as the Administrative Code of 1987, as amended.

- wage on ordinary days and thirty (30) percent on regular holidays, special days, and rest days for work beyond eight hours per day;
- e. Night shift differential of ten percent of their basic wage for work performed between 10:00 p.m. and 6:00 a.m. of the following day;
  - f. Paid service incentive leave of five days for every year of service;
  - g. 13<sup>th</sup> month pay pursuant to Presidential Decree No. 851,<sup>23</sup> as amended, equivalent to one-twelfth (1/12) of the total basic salary earned within the calendar year to be given not later than 24 December of each year;
  - h. Paid maternity leave of sixty (60) days for normal delivery and seventy-eight(78) days for Caesarian section delivery pursuant to Republic Act No. 1161,<sup>24</sup> as amended by Republic Act No. 8282;<sup>25</sup>
  - i. Paid paternity leave of seven (7) days pursuant to Republic Act No. 8187;
  - j. Paid parental leave of seven (7) days for solo parents pursuant to Republic Act No. 8972;<sup>26</sup>
  - k. Paid leave of ten (10) days for victims of violence pursuant to Republic Act No. 9262;<sup>27</sup>
  - l. Paid leave for women who underwent surgery caused by gynecological disorders pursuant to Republic Act No. 9710;<sup>28</sup> and
  - m. Retirement pay upon reaching the age of sixty (60) pursuant to Republic Act No. 7641.<sup>29</sup>

Nothing in this Rules shall prevent the vessel owners to provide better terms and conditions of employment or stipulate for such through contracts or collective bargaining agreements with the fishers.

**Section 4. Meal Breaks.** - Fishers shall be entitled to a break/time-off of not less than sixty (60) minutes for their regular meals.

**Section 5. Rest Period and Rest Day.** - Fishers shall be entitled to an aggregate daily rest period of ten hours per day and to a rest period of not less than twenty-four (24) consecutive hours after every six (6) consecutive work days.

The captain or master may require fishers to perform work necessary for the immediate safety of the vessel, the persons on board or the catch, or for the purpose of giving assistance to other boats or ships or persons in distress at sea.

Accordingly, the captain or master may suspend the schedule of hours of rest and require fishers to perform work necessary during emergency and until the normal situation has been restored. The captain or master shall ensure that any fisher who has performed work in a scheduled rest period is provided with an adequate period of rest and duly compensated for the additional work rendered pursuant to applicable provisions of this Rules.

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<sup>23</sup> Requiring All Employers to Pay their Employees a 13<sup>th</sup> Month Pay.

<sup>24</sup> Social Security Law.

<sup>25</sup> An Act Further Strengthening the Social Security System thereby Amending for this Purpose, Republic Act No. 1161, as amended, otherwise known as the Social Security Law.

<sup>26</sup> Solo Parents' Welfare Act of 2000.

<sup>27</sup> Anti-Violence Against Women and their Children Act of 2004.

<sup>28</sup> The Magna Carta of Women.

<sup>29</sup> An Act Amending Article 287 of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines, By Providing for Retirement Pay to Qualified Private Sector Employees in the Absence of any Retirement Plan in the Establishment.

## **RULE V**

### **Compensation Scheme**

**Section 1. Policy.** - Fishers shall receive minimum wages. Productivity-improvement measures shall be introduced to ensure decent working standard for fishers and decent living standard for their families.

**Section 2. Compensation Scheme.** - The compensation scheme for the fishing industry shall be consistent with the two-tiered wage policy that ensures minimum wage, mandatory wage-related benefits to fishers and encourages the voluntary adoption and implementation of productivity and/or performance-based pay.

The criteria/formula for the implementation of productivity and/or performance-based pay shall be mutually determined by the fishing vessel owners and fishers upon agreement on the adoption of the same.

**a. Fishers in small-scale commercial fishing operation**

During the first year of implementation of this Rules, the NWPC and the ILS shall conduct a study to determine the appropriate compensation scheme for small-scale fishing operation. The recommended compensation scheme shall be implemented at the start of the third year of the effectivity of this Rules.

**b. Fishers in medium-scale commercial fishing operation**

Fishing vessel owners shall ensure that fishers in medium-scale commercial fishing operation shall receive applicable daily rate,<sup>30</sup> considering the duration of actual work, which shall not be less than the applicable minimum wage for the non-agricultural sector prescribed by the appropriate RTWPB having jurisdiction over the fishing vessel's port of registration and wage-related benefits and productivity or performance-based pay pursuant to the succeeding Section.

**c. Fishers in large-scale commercial fishing operations.**

Fishing vessel owners shall ensure that fishers receive daily minimum wage for the non-agricultural sector prescribed by the appropriate RTWPB having jurisdiction over the fishing vessel's port of registration and wage-related benefits and productivity or performance-based pay pursuant to the succeeding Section.

**Section 3. Two-Tiered Compensation Scheme.** - The compensation scheme for masters or captains and fishers in medium and large-scale commercial fishing operations shall be composed of minimum wage and wage-related benefits and productivity or performance-based pay, to wit:

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<sup>30</sup> Applicable Daily Rate = Total Shares and Wages Received by the Fisher for the Year/Factor. See Handbook of Statutory Monetary Benefits. 2014 Edition. Bureau of Working Conditions. Department of Labor and Employment.  
Factors:393.5 for those who are required to work everyday, including Sundays or rest days, special days and regular holidays

313 for those who do not work and are not considered paid on Sundays or rest days

261 for those who do not work and are not considered paid on Saturdays and Sundays or rest days

**a. Minimum Wage and Wage-Related Benefits**

Wages and/or shares of masters or captains and fishers shall not be less than the applicable daily minimum wage for the non-agricultural sector prescribed by the appropriate RTWPB having jurisdiction over the fishing vessel's port of registration.

**b. Productivity or Performance-Based Pay**

For medium and large-scale fishing operations, fishers and fishing vessel owners are encourage to mutually agree and adopt a productivity or performance-based incentive scheme on top of the applicable minimum wage, which may take into consideration business and individual fisher's performance, productivity, accident safety and prevention, cost-savings and attainment of quota/targets.

The grant of productivity or performance-based pay shall not diminish existing gain-sharing arrangements, other forms of bonus and incentive being given to fisher and those provided under collective bargaining agreement.

**Section 4. Technical Assistance by the RTWPB.** - The RTWPB shall formulate regulations, consistent with the existing guidelines issued by the NWPC, on the productivity and/or performance-based pay scheme.

The RTWPB shall issue advisories for productivity-based pay scheme and provide technical assistance in the development of parameters, criteria, formula in computation of productivity and/or performance-based pay scheme.

**Section 5. Payment of Wages.** - Unless there is an agreement to the contrary, the wages of fishers shall be paid in cash every after two weeks or at intervals not exceeding sixteen (16) days. Provided, however, that no fishing vessel owner shall make payment with less frequency than once a month. Fishing vessel owners shall ensure that fishers working on board fishing vessels are given means to transmit all or part of their wages, including advances, to their families at no cost.

Unless otherwise agreed upon or stipulated in the employment agreement, productivity or performance-based incentive shall be given to the fishers on the succeeding pay immediately following the completion of every fishing trip.

**Section 6. Transparency in Fisher's Pay.** - To ensure fairness, the basis of fishers' productivity or performance-based incentive shall be properly agreed upon. Fishing vessel owners shall maintain payrolls and provide fishers with payslips. Moreover, payments for fishers or their family's advances shall be properly documented.

**RULE VI**  
**Field Personnel**

**Section 1. Field Personnel.** - Fishers shall not be considered as field personnel, except when: (a) they regularly perform duties away from the principal

place of business or branch office of the fishing vessel owner; and (b) their actual hours of work in the sea cannot be determined with reasonable certainty.

**Section 2. Entitlement to Wage-Related Benefits of Field Personnel.** - Unless provided otherwise under the employment agreement, company policies and practices, or collective bargaining agreements, fishers deemed as field personnel are not entitled to the wage-related benefits under Title I, Book III of the Labor Code, as amended.

## **RULE VII Occupational Safety and Health**

**Section 1. Policy.** - This Rules aims to promote health and safety, protection from and prevention of accidents, injuries, diseases, or deaths occurring in the course of employment of fishers onboard fishing vessels through compliance with mandatory occupational safety and health standards.

**Section 2. Occupational Safety and Health Standards for Covered Commercial Fishing Operation.** - For small-scale, medium-scale and large-scale commercial fishing operation, the following standards shall be mandatory:

**2.1. Occupational Safety and Health Program.** The fishing vessel owner shall formulate, implement, and promote occupational safety and health policies and programs consistent with the provisions of the OSHS, as amended, and other related DOLE issuances. Said programs shall include the prevention and control of tuberculosis, human immunodeficiency virus and acquired immunodeficiency syndrome, hepatitis B, and the prohibition of illegal drug use on board the fishing vessel.

The fishing vessel owner shall also implement and promote workplace policies and programs on anti-smoking, anti-sexual harassment, and alcohol dependency among fishers. The implementation of such policies and programs shall be extended to all fishing vessels under the operation of the fishing vessel owner.

**2.2. Safety and Health Committee.** The captains or masters on board fishing vessels shall act as safety officers for small and medium-scale commercial fishing vessels.

An on-board safety and health committee shall be organized in large-scale commercial fishing vessels pursuant to Rule 1040 of the existing OSHS, as amended. The captains or masters on board this class of fishing vessel shall act as chairman of the committee.

**2.3. Training and Orientation on Occupational Safety and Health.** Without prejudice to STCW Manila Amendment, the fishing vessel owner shall require their captains or masters and fishers to undergo applicable occupational safety and health training depending on their rank or position and classification of the vessel.

a. All captains or masters of the fishing vessels regardless of the type or category of the vessel they are manning shall undergo the mandatory forty-hour Basic Occupational Safety and Health Training with DOLE or its accredited safety training organization or its equivalent as prescribed by

MARINA or its accredited training organization. Likewise, the fishing vessel owner shall require all their captains or masters to undergo the basic first aid training conducted by the PRC or any accredited training organization.

- b. All fishers manning fishing vessels shall undergo eight-hour occupational safety and health orientation conducted by DOLE or its accredited safety training organization or its equivalent as prescribed by MARINA or its accredited training organization.

**2.4. Safety Protection and Accident Prevention.** The fishing vessel owner shall ensure the following are observed on board for safety, protection, and accident prevention.

a. **Electrical Safety.**

- i. All testing and work performed on electrical equipment shall be in accordance with the Philippine Electrical Standards and must be performed only by a fisher with required training and skills in electrical work. The fisher must use insulated protection and tools that will protect him/her from injury.
- ii. If a fisher is working on or near electrical equipment that is live or may become live, the electrical equipment shall be guarded.

- b. **Machine Guarding.** The fishing vessel owner shall ensure that all on board machinery and equipment shall be fitted with machine guards to prevent possible injury to fishers.

c. **Materials Handling and Storage.**

- i. Where mechanical handling equipment is used, sufficient safe clearance shall be allowed for aisles, at loading docks, through doorways, and wherever turns or passageways must be made. Aisles and passageways shall be kept clear with no obstruction across or in aisles that could create a hazard. Permanent aisles and passageways shall be appropriately marked.
- ii. Every fisher who is required to handle loads manually shall be properly trained. Before lifting and carrying weights, fishers should first inspect the load as regards to its weight, size, and shape. The use of lifting aids should be encouraged. Attention should be given to sharp edges, protruding nails or splinters, greasy surfaces, or any other features which might lead to an accident.
- iii. Storage of material shall not create a hazard. Bag containers, bundles, etc. stored in tiers shall be stacked, blocked, interlocked, and limited in height so that the materials are stable and secured against sliding or collapse.
- iv. Storage areas shall be kept free from accumulation of materials that constitute hazards of tripping, fire, explosion, or pest harborage. Controls for perishable items shall be exercised accordingly and in compliance with existing regulations. As far as practicable, the working surface used by the fisher must be kept free from grease, oil, or any other slippery substance and of any material or object that may create a hazard to the fisher.

d. **Fire Prevention, Fire Fighting and Emergency Response.**

- i. Fire protection equipment must be installed, inspected, and maintained on board every fishing vessel in accordance to Chapters VII (Fire Protection and Fire Extinction) and VIII (Fire Safety Measures) of the Philippine Merchant Marine Rules and Regulations, as amended.
  - ii. Emergency exits from all accommodation spaces shall be provided and properly marked. Every fishing vessel owner must prepare emergency procedures, including evacuation or abandon ship procedures. Notices that set out the details of the emergency procedures must be posted in conspicuous places accessible to every fisher on board the fishing vessel.
  - iii. Every fisher must be trained and instructed on the procedures to be followed in the event of an emergency, including the proper use and location of fire protection equipment and life-saving devices.
  - iv. Emergency and life-saving devices shall be provided by the fishing vessel owner and must be placed in conspicuous areas accessible to every fisher on board the fishing vessel.
- e. **Personal Protective Equipment.**
- i. The fishing vessel owner shall, at his/her own expense, furnish the fishers with personal protective equipment for the eyes, ears, face, hands, and feet, and protective shields and barriers, whenever necessary, by reason of the hazardous nature of the process or environment, chemical, physical, or other safety hazards capable of causing injury or impairment in the function of any part of the body through absorption, inhalation, or physical contact.
  - ii. All personal protective equipment shall be of approved design and construction appropriate to the exposure and the work to be performed.
  - iii. The fishing vessel owner shall be responsible for the adequacy and proper maintenance of personal protective equipment used by the fishers on board the fishing vessel.
  - iv. No fisher shall be subjected or exposed to a hazardous environmental condition without proper protection.

The fishing vessel owner shall, likewise, develop, implement and monitor a program for the prevention of hazard in the fishing vessels; conduct hazard risk evaluation and control including measures to reduce and prevent risk of exposures to chemical, physical, biological, and ergonomic hazards that may arise while in the course of duty on board the fishing vessel; and institute measures to monitor work environment, safe work procedures, machine safety, materials handling, and the use of appropriate personal protective equipment.

**2.5. Medical Care.** The fishing vessel owner shall provide adequate first aid services on board and shall ensure that all fishers have access, when in port, to out-patient treatment for sickness or injury, hospitalization, when necessary, and dental treatment.

Likewise, the fishing vessel owner shall ensure that there is available means of communication for medical advice taking into consideration all available technology.

Further, the fishing vessel owner shall ensure that all fishing vessels carry a first aid kit and medical supplies, which shall be properly maintained and inspected at regular intervals by the captain or master. Medicines shall be properly stored and labeled with directions for use and expiry dates.

First aid kits shall be accessible to all fishers on board the fishing vessel and shall be clearly identified by a conspicuous sign. The fishing vessel owner shall provide and maintain medicines and medical supplies listed in the OSHS, as amended, or the Maritime First Aid Guide (MFAG), which, as much as possible, shall be enough for the entire duration at sea.

If substances hazardous to skin or eyes exist on the fishing vessel, shower facilities to wash the skin and/or eyewash facilities to irrigate the eyes shall be provided for immediate use by the fishers. If it is not practicable to do so, portable equipment shall be provided such as wash basins.

The fishing vessel owners shall keep and maintain medical and health records, reports, or other related documents in their onshore facilities in a manner that ensures confidentiality yet easy access by company's occupational health personnel. The fisher shall have access to his/her own records at no cost as may be needed.

Large commercial fishing vessels shall carry appropriate medical equipment and medical supplies, taking into account the number of fishers on board, the area of operation and the length of the voyage.

**2.6. Food and Potable Water.** The fishing vessel owner shall ensure that fishers are provided with ample food supply, food preparation and storage facilities, and potable water for drinking and food preparation.

- a. Cooking equipment shall be provided on board and shall be fitted, where practicable, in a separate galley. Where a separate galley is not provided, cooking area shall be of adequate size for the purpose, well-lit and ventilated, and properly equipped and maintained.
- b. The containers of butane or propane gases used for cooking purposes in a galley shall be kept on the open deck and in a shelter which is designed to protect them from external heat sources and external impact.
- c. A suitable place for provisions of adequate capacity shall be provided which can be kept dry, cool, and well-ventilated in order to avoid deterioration of stores and, where practicable and possible, refrigerators or other low temperature storage shall be used.
- d. Food and potable water shall be sufficient, considering the number of fishers and duration and nature of the voyage. In addition, they shall be suitable in respect of nutritional value, quality, quantity, and variety, considering fishers' religious or health requirements and cultural practices in relation to food.

**Section 3. Requirements for General Accommodation and related Facilities.** - The succeeding requirements of this Rule for accommodation and related facilities shall be applicable to fishing vessels that are engaged in large-scale commercial fishing operation and constructed on or after the effectivity of this Department Order. Provided, however, that owners of existing fishing vessels regardless of category, shall, as much as practicable, comply with the following

requirements.

Plans, designs and layouts of covered newly-constructed fishing vessels shall conform to applicable maritime laws, rules and regulations.

**3.1. Sleeping Accommodation.** Where the design, dimensions, or purpose of the fishing vessel allow, the sleeping accommodation shall be located so as to minimize the effects of motion and acceleration but in no case be located at the forward of the collision bulkhead.

a. Insulation

Sleeping accommodation shall be adequately insulated against heat and shall be adequately protected against mosquitoes and other insects.

b. Airconditioning System

For large commercial fishing vessels, applicable airconditioning system shall be installed in sleeping and accommodation spaces.

c. Floor Area and Person per Sleeping Room

The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishers on board, taking into account the intended service of the vessel.

For large scale commercial fishing vessels, the floor area per person shall not be less than 1.5 square meters and the number of persons per sleeping room shall not be more than six (6).

d. Openings

Sleeping rooms must not open directly into cargo and machinery spaces, galleys, storage rooms, drying rooms, or communal sanitary areas.

e. Separate Sleeping Accommodation

Separate sleeping accommodation shall be provided for men and women.

**3.2. Mess Rooms.** Fishing vessels shall be provided with mess-room accommodation suitable for their service. To the extent as practicable, mess-room accommodation shall be separate from sleeping quarters.

For large scale commercial fishing vessel, mess rooms shall be as close as possible to the galley, but in no case shall be located forward of the collision bulkhead.

The dimensions and equipment of each mess room shall be sufficient for the number of fishers likely to use it at any one time and for the type and quantity of provisions to be brought on board for a particular fishing voyage.

**3.3. Sanitation Facilities.** Sanitary facilities, which include toilets, wash basins, and tubs or showers, shall be provided for all fishers on board, as

appropriate for the service of the vessel and shall be separate for men and women.

Water, of sufficient quantities, shall be available to all fishers on board to allow for proper hygiene. Where sanitary facilities are provided, it shall be properly ventilated to eliminate contamination of other spaces as far as practicable. The sanitary facilities shall allow for reasonable privacy.

For large scale commercial fishing vessels, fishers, who do not occupy rooms to which sanitary facilities are attached, shall be provided at least a toilet and bathing area. Also, amenities for washing and drying clothes shall be provided, as may be necessary taking into account the service of the fishing vessel.

**3.4. Work Environment Conditions.** The fishing vessel owner shall ensure and maintain the working and living environment in comfortable and healthy conditions for the purpose of promoting and maintaining the health of the fishers.

a. Headroom

Large scale commercial fishing vessels shall have a headroom of not less than two hundred (200) centimeters. For other fishing vessels, adequate headroom that is reasonable and will not result to discomfort of fishers shall be provided.

b. Ventilation.

- i. Sleeping and accommodation areas and work rooms with machineries shall be adequately ventilated.
- ii. For large commercial fishing vessels, appropriate ventilation system shall be installed in sleeping and accommodation areas and work rooms with machineries.
- iii. All enclosed areas in fishing vessels shall be designated as non-smoking areas.

c. Lighting.

- i. All accommodation spaces shall be provided with adequate light.
- ii. Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where sleeping spaces have natural light, a means of blocking the light shall be provided.
- iii. Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room.
- iv. Emergency lighting shall be provided in sleeping rooms aside from those areas required by OSHS, as amended, PMMRR, as amended, and all other relevant rules and regulations.
- v. Where a fishing vessel is not fitted with emergency lighting in mess rooms, passageways, and any other spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces.

d. Noise and Vibration.

- i. The level of sound in the fishing vessel must be less than eighty-five (85) decibels. If it is not reasonably practicable to maintain the level of sound at less than eighty-five (85) dB, feasible engineering or administrative controls shall be utilized. If such controls fail to reduce a sound within eighty-five (85) decibels, ear protective devices capable of bringing the sound level to permissible noise exposure shall be provided by the fishing vessel owner, free of charge, to the fishers.
- ii. In a work area where the level of sound is eighty-five (85) dB or more, appropriate signage and warnings shall be installed to warn fishers entering the said area.
- iii. Accommodation, recreational, and catering facilities must be, as far as practicable, insulated from the noise emanating from engines, steering gear rooms, deck winches, ventilation and air conditioning equipment, and other machinery and equipment.

The same areas must not be exposed to excessive vibration.

e. Hazardous Substances.

- i. All containers with hazardous substances shall be properly labeled in accordance to Globally Harmonized System. No fishing vessel owner shall accept any container of hazardous substances for use, handling, storage, or disposal on a fishing vessel unless such container is labeled with the following:
  - a) The trade and chemical name of the substance;
  - b) The hazardous properties of the substance;
  - c) Hazard statements;
  - d) Precautionary statements; and
  - e) Manufacturer's identity.
- ii. All hazardous substances for use, handling, and storage on a fishing vessel should have Safety Data Sheets from the supplier and shall keep a copy of the same readily available in the fishing vessel for information of the fishers.
- iii. Fishers shall be given careful instructions if special precautions need to be taken when operations would produce fumes and depleted oxygen.
- iv. A fisher must not be exposed to a concentration of an airborne chemical agent in excess of the TLV for that chemical agent as prescribed by the OSHS, as amended.

**Section 4. Safety and Health Reports.** - The fishing vessel owner shall submit to DOLE through its Regional Office having jurisdiction over the principal place of business of the fishing vessel the Report on Safety and Health Organization, Annual Medical Report, and minutes of the meetings of the Safety and Health Committee.

**Section 5. Marine Protests.** - Marine protests submitted to the PCG by the captain or master of the affected fishing vessel shall be considered as an equivalent to DOLE's Work Accident and Illness Report and Report on Fatal Accidents. The fishing vessel owner shall submit such marine protest to the DOLE Field/Provincial Office having jurisdiction over the area where the accident or any incident occurred within five (5) days from occurrence of the same.

## **RULE VIII**

### **Termination of Employment**

**Section 1. Right to Security of Tenure.** - The employment of fishers can only be terminated for either just or authorized causes pursuant to Articles 297, 298 and 299<sup>31</sup> of the Labor Code, as amended. In all cases of termination of employment, the standards of due process laid down in Article 292(b)<sup>32</sup> of the Labor Code, as amended, and settled jurisprudence on the matter, must be observed.

For termination of employment based on just causes as defined in Article 297 of the Labor Code, as amended, and Department Order No. 147-15, Series of 2015,<sup>33</sup> the requirement of two written notices served on the fisher shall observe the following:

- a. The first written notice should contain:
  1. The specific causes or grounds for termination;
  2. Detailed narration of the facts and circumstances that will serve as basis for the charge against the fisher.
  3. The company rule, if any, that is violated and/or the ground under Article 297 that is being charged against the fisher; and
  4. A directive that the fisher is given opportunity to submit a written explanation within a reasonable period. Reasonable period should be construed as a period of at least five calendar days from receipt of the notice to give the fisher an opportunity to study the allegation and charge against him/her, consult a union official or lawyer, gather data and evidence, and decide on his/her defenses.
- b. After serving the first notice, the fishing vessel owner shall afford the fisher ample opportunity to be heard and to defend himself/herself with the assistance of a union official or lawyer, if he/she desires, as provided in Article 292(b) of the Labor Code, as amended.

Ample opportunity to be heard should be construed as any meaningful opportunity (verbal or written) given to fisher to answer the charges against him/her and submit evidence in support of his/her defense, whether in a hearing, conference or some other fair, just, and reasonable way. A formal hearing or conference becomes mandatory only in the following instances:

1. When requested by the fisher in writing;
  2. When substantial evidentiary dispute exists;
  3. When company rule or practice requires it; or
  4. When similar circumstances justify the conduct of the same.
- c. After determining that termination of employment is justified, the fishing vessel owner shall serve the fisher a written notice of termination indicating the following:

1. That all circumstances involving the charge against the fisher have

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<sup>31</sup> Department Advisory No. 01, Series of 2015.

<sup>32</sup> *Ibid.*

<sup>33</sup> Amending the Implementing Rules and Regulations of Book VI of the Labor Code of the Philippines.

- been considered; and
2. The grounds for termination of his/her employment have been established to justify the same.

The first written notice and the written notice of termination of employment shall be served at the fisher's last known address.

For termination of employment based on authorized causes as defined in Article 298 of the Labor Code, as amended, the requirement of due process shall be deemed complied with upon serving a written notice to the fisher and the appropriate DOLE Regional Office, specifying the ground or grounds for termination of employment, at least thirty (30) days before the effectivity of the same.

If the termination of employment is brought about by the failure of a probationary fisher to meet the reasonable standards of the fishing vessel owner, which were made known to the fisher at the time of his/her employment, it shall be sufficient that a written notice is served upon the probationary employee within a reasonable time prior to the expiration of the probationary period.

**Section 2. Repatriation of Fishers.** - In cases of death, illness and other justifiable reasons, fishers shall immediately be repatriated at the expense of the fishing vessel owner.

In case the fishing vessel owner fails to provide the cost of repatriation, the parties referred to in the next succeeding paragraph shall immediately advance the repatriation and other attendant costs, including plane fare, deployment cost, and immigration fines and penalties, without a prior determination of the cause of the termination of the fisher's employment agreement. However, after the fisher has returned to the country, the party who advanced the repatriation expenses may recover it from the fishing vessel owner.

The joint and solidary obligation for the repatriation of the fisher between the fishing vessel owner and contractor/subcontractor, as defined in DOLE Department Order No. 18-A, Series of 2011, shall extend to the following:

1. Bareboat or demise charterer;
2. Time or voyage charterer;
3. Person or group of persons, entity who engaged the services of the fishers through Cabo system; or
4. Person or group of persons, entity who has engaged the services of the fishers and paid by result.

For fishers arrested for illegal fishing in other countries, the fishing vessel owner shall pay them with daily minimum wage as stated under Rule V of this Rules for the duration of their detention.

Further, the fishing vessel owner shall shoulder repatriation expense of fishers arrested for illegal fishing in other countries. For this purpose, the expenses for the repatriation shall include the following:

1. Passage to destination;
2. Accommodation and food from the moment the fisher leaves the vessel until the fisher reaches the repatriation destination;
3. Pay and allowances from the moment the fisher leaves the vessel until the fisher reaches the repatriation destination – as may be provided for in a

- collective bargaining agreement;
4. Transportation of the fishers' personal baggage; and
  5. Medical treatment, when necessary, until the fisher is medically fit to travel to the repatriation destination.

## **RULE IX Social Protection**

**Section 1. Social Protection Benefits.** - Without prejudice to established company policy, or collective bargaining agreement, or other applicable employment agreement, fishers shall be entitled to coverage for social welfare benefits provided by Pag-IBIG,<sup>34</sup> PhilHealth,<sup>35</sup> SSS,<sup>36</sup> Employees' Compensation Program<sup>37</sup> and other applicable laws.

In the absence of social security coverage, medical and hospitalization costs of work-related injuries, illness and sickness of fishers shall be shouldered by fishing vessel owners.

## **RULE X Joint Venture and Industrial Partnership**

**Section 1. Joint Venture Agreement and Industrial Partnership.** - Joint venture agreement and partnership established pursuant to existing laws, rules and regulations shall be respected.

**Section 2. Fishers as Industrial Partners.** - Without prejudice to applicable provisions of existing laws and jurisprudence, fishers may be considered as industrial partners when all of the following indicators are present:

- a. A contract or articles of partnership duly executed by fishers and fishing vessel owners as partners, and registered with the Security and Exchange Commission;
- b. Absence of control of fishing vessel owners over the captains or masters and fishers with respect to the means and methods by which the work is to be accomplished;
- c. Creation of a juridical entity separate from the partners;
- d. Utilization of partnership as a mode of managing commercial fishing operation;
- e. Parity of standing between the partners in which the fisher as a partner has an equal proprietary interest in the capital or property contributed and where each partner exercises equal rights in the conduct of the business; and
- f. Death of a fisher causes the dissolution of the partnership.

**Section 3. Obligations to Fishers.** - Parties to the joint venture or partnership shall ensure that fishers considered employees of the joint venture or partnership are receiving the applicable wage and wage related benefits under Rule V.

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<sup>34</sup> Republic Act No. 9679.

<sup>35</sup> Republic Act No. 7875, as amended by Republic Act No. 9241.

<sup>36</sup> Republic Act No. 1161, as amended by Republic Act No. 8282.

<sup>37</sup> Presidential Decree No. 626.

## **RULE XI**

### **Licensing, Training and Development**

**Section 1. Licensing and Certification.** - The BWC and OSHC, in coordination with BFAR, PFDA, MARINA, and PCG,<sup>38</sup> shall review the existing assessment, licensing and certification programs for fishing vessels and fishers and recommend a responsive and coordinated licensing and certification program to ensure the safety of fishing vessels, and safety and health of fishers.

**Section 2. Proficiency Standards.** - The TESDA, in coordination with BWC, OSHC, BFAR and MARINA, shall develop training regulations for fishers taking into account generally accepted international standards pursuant to Section 116 of the Implementing Rules and Regulations of Republic Act No. 8550, as amended.

## **RULE XII**

### **Labor-Management Cooperation**

**Section 1. Right to Self-Organization and Collective Bargaining.** - Fishers shall have the right to form, join, or assist in the formation of a labor organization, association, or cooperative of their own choice for purposes of collective bargaining or for mutual aid or protection.

**Section 2. Labor-Management Cooperation.** - The NCMB shall encourage and assist fishing vessel owners and the fishers in creating a labor and management committee or any labor management mechanism that shall develop and implement labor-management cooperation schemes and welfare programs for fishers.

The labor and management committee shall be the mechanism for the determination of productivity or performance-based pay pursuant to existing policies, rules and regulations of NWPC.

## **RULE XIII**

### **Compliance and Enforcement**

**Section 1. Enforcement of Labor and Occupational Safety and Health Standards.** - The DOLE Regional Office having jurisdiction over fishing vessel's actual place of operation, shall conduct joint assessment to determine compliance to general labor standards and occupational safety and health standards

For this purpose, the BWC and OSHC shall develop a Manual for ascertaining fishing vessel owners' compliance with general labor and occupational safety and health standards, taking into consideration Department Order No. 131-13, Series of 2013,<sup>39</sup> as amended, and Manual on Labor Laws Compliance System and Procedures for Uniformed Implementation, within 60 days from the effectivity of this Rules.

**Section 2. Enforcement of Fishing, Maritime, Coast Guard and Fish Port Laws.** - Fishing, maritime, coast guard and fish port laws, rules and regulations shall be enforced pursuant to the Memorandum of Agreement among the DOLE, DA, DOTC, BFAR, PFDA, MARINA and PCG.

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<sup>38</sup> Pursuant to the Memorandum of Agreement dated 27 July 2015.

<sup>39</sup> Rules on Labor Laws Compliance System.

**Section 3. Fishing Vessels Without COC or Company COC.** - Fishing vessel owners shall obtain Certificate of Compliance to general labor and occupational safety and health standards of all their vessels within sixty (60) days from the effectivity of this Rules.

**Section 4. Joint Assessment.** - The DOLE Regional Offices, shall coordinate, as much as practicable, with OSHC, BFAR, MARINA, PCG and PFDA for the conduct of joint assessment of fishing vessels' compliance with general labor standards and occupational safety and health standards; fishery laws, rules and regulations; maritime laws, rules and regulations; coast guard laws, rules and regulations; and other relevant laws, rules and regulations.

**Section 5. Improving Compliance with Labor Standards.** - To ensure continuing compliance with labor and occupational safety and health standards, fishing vessel owners are encouraged to apply and participate in the Incentivizing Compliance Program.<sup>40</sup>

**Section 6. Violations of Employment Agreement.** - Any violation of the provisions of the employment agreement, either uncovered during the conduct of joint assessment or compliance visit, shall be initially resolved pursuant to the Single-Entry Approach Program (SEnA).

**Section 7. Violations of Labor and Occupational Safety and Health Standards.** - Violations of labor and occupational safety and health standards shall be resolved pursuant to DOLE No. 151-16, Series of 2016.

**Section 8. Tripartite Monitoring Body.** - A regional-based Industry Tripartite Council shall be established within thirty (30) days from the effectivity of this Rules. The Fisheries and Aquatic Resources Management Councils shall be properly represented therein.

It shall submit quarterly report to the Secretary of Labor and Employment and to the National Tripartite Industrial Peace Council containing, among others, compliance with the general labor and occupational safety and health standards, compensation scheme adopted, and fishers' exercise of their right to self-organization.

For fishing concerns, the Cabinet Committee on Marine and Ocean Affairs Technical Working Group, National Monitoring, Control and Surveillance System Operations Center, National Fisheries and Aquatic Resources Council, BFAR, MARINA, PCG and PFDA shall be invited, whenever necessary, in the National Tripartite Industrial Peace Council.

**Section 9. Registry of Compliant Fishing Vessels.** - The BWC shall maintain a central registry of compliant fishing vessels, which is accessible through the websites of the OSHC, BFAR, MARINA, PCG and PFDA.

#### **RULE XIV Livelihood Program and Support**

**Section 1. Displacement of Fishers.** - During lean season and/or closed

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<sup>40</sup> Department Order No. 115-11.

season, the DOLE, through its Regional Offices, shall facilitate the access of fishers and members of their families to livelihood and temporary employment and income opportunities under the DOLE Integrated Livelihood and Emergency Employment Program, subject to compliance to the requirements under Department Order No. 137, Series of 2014.

**Section 2. Livelihood Program.** - The DOLE shall implement convergence programs with other government agencies in implementing livelihood and other support programs to fishers.

## **RULE XV Penalties**

**Section 1. Non-Payment of Wage and Wage-Related Benefits.** - Double indemnity shall be imposed for non-payment of wage and wage-related benefits pursuant to Republic Act No. 8188.<sup>41</sup> Further, non-payment or non-remittance of social security contributions shall be penalized under the laws, rules and regulations of social security agencies.

**Section 2. Child Labor and Forced Labor.** - Fishing vessel owner engaged in child labor and forced labor shall be penalized pursuant to appropriate provisions of the Revised Penal Code,<sup>42</sup> Republic Act No. 7610,<sup>43</sup> Republic Act No. 7658,<sup>44</sup> Republic Act No. 9208,<sup>45</sup> Republic Act No. 9231<sup>46</sup> and Republic Act No. 10364.<sup>47</sup>

**Section 3. Obstruction of Labor Law Compliance Officer.** - Obstruction of Labor Law Compliance Officer shall be penalized under existing labor laws, rules and regulations.

## **RULE XVI Miscellaneous Provisions**

**Section 1. Mandatory Review.** - The provisions of this Department Order shall be reviewed in consultation with the stakeholders, after one year of implementation.

**Section 2. Non-Diminution of Benefits.** - Nothing herein shall be construed to authorize diminution of benefits currently being enjoyed by fishers.

**Section 3. Effect of Existing Company Policy, Contract or Collective Bargaining Agreement.** - The minimum benefits provided under this Rules shall be without prejudice to any company policy, contract or collective bargaining agreement which provides better benefits and terms and conditions of employment.

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<sup>41</sup> An Act Increasing the Penalty and Increasing Double Indemnity for Violation of the Prescribed Increases or Adjustment In the Wage Rates, Amending for the Purpose Section Twelve of Republic Act Numbered Sixty-Seven Hundred Twenty-Seven, Otherwise Known as the Wage Rationalization Act.

<sup>42</sup> Articles 272 (slavery), 273 (exploitation of child labor) and 274 (services rendered under compulsion in payment of debt).

<sup>43</sup> Special Protection of Children against Abuse, Exploitation and "Discrimination Act."

<sup>44</sup> An Act Prohibiting the Employment of Children Below 15 Years of Age in Public and Private Undertakings, Amending for This Purpose Section 12, Article VIII of R.A. No. 7610.

<sup>45</sup> Anti-trafficking in Persons Act of 2003.

<sup>46</sup> An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, Amending for This Purpose Republic Act No. 7610, As Amended, Otherwise Known As the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act.

<sup>47</sup> Expanded Anti-Trafficking in Persons Act of 2012.

**Section 4. Separability Clause.** - If any provision or portion of this Rules is declared void or unconstitutional, the remaining portions or provisions shall remain valid and effective.

**Section 5. Supersession Clause.** - All policies, issuances, rules and regulations and agreements inconsistent with this Rules are hereby superseded accordingly.

**Section 6. Effectivity.** - This Rules shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Manila, Philippines, 25 May 2016.

  
**ROSALINDA DIMAPILIS-BALDOZ**  
Secretary

Dept. of Labor & Employment  
Office of the Secretary  
  
021672

## LIST OF ACRONYMS

<b>BFAR</b>	-	<b>Bureau of Fisheries and Aquatic Resources</b>
<b>BWC</b>	-	<b>Bureau of Working Conditions</b>
<b>DA</b>	-	<b>Department of Agriculture</b>
<b>DOH</b>	-	<b>Department of Health</b>
<b>DOLE</b>	-	<b>Department of Labor and Employment</b>
<b>DOTC</b>	-	<b>Department of Transportation and Communications</b>
<b>MARINA</b>	-	<b>Maritime Industry Authority</b>
<b>NCMB</b>	-	<b>National Conciliation and Mediation Board</b>
<b>NWPC</b>	-	<b>National Wages and Productivity Commission</b>
<b>OSHC</b>	-	<b>Occupational Safety and Health Center</b>
<b>OSHS</b>	-	<b>Occupational Safety and Health Standards</b>
<b>PCG</b>	-	<b>Philippine Coast Guard</b>
<b>PFDA</b>	-	<b>Philippine Fisheries Development Authority</b>
<b>POEA</b>	-	<b>Philippine Overseas Employment Administration</b>
<b>PRC</b>	-	<b>Philippine Red Cross</b>
<b>RTWPB</b>	-	<b>Regional Tripartite Wages and Productivity Board</b>
<b>STCW</b>	-	<b>International Convention on Standards of Training, Certification and Watchkeeping</b>
<b>TESDA</b>	-	<b>Technical Education and Skills Development Authority</b>