



Fisheries Office Order No.: 167-A  
Series of 2012

## Standard Operating Procedures for the Strengthening of BFAR's Fishery Law Enforcement

### References:

1. Fisheries Office Order No. 241, series of 2011, creating the Fisheries Resource Protection and Law Enforcement Unit (FRPLE) and Quick Response Team (QRT) under the Office of the Director;
2. the BFAR Law Enforcement Support Program for 2012,
3. the memorandum to all Regional Directors (except CAR) dated January 12, 2012 requiring submission of qualified applicants for hiring, and
4. the corresponding authorities to hire personnel in support to the program

### A. RELEVANT AND APPLICABLE LAWS, RULES AND REGULATIONS

The following relevant and applicable laws, rules and regulations shall be the legal basis of strengthening fisheries resource protection and law enforcement, alongside with other government law enforcement agencies, viz.:

#### 1. Philippine Constitution:

- a. Article I- National Territory,
- b. Art. II, Section 15 "The State shall protect and promote the right to health of the people..."
- c. Art. II, Section 16 "The State shall protect and advance the right of the people to a balance and healthful ecology in accordance with the rhythm and harmony of the nature"
- d. Art. 12, Section 2 "All lands of the public domain waters, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, forest or timber, wildlife, flora and fauna, and other natural resources are owned by the state..... The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State....."
- e. Art. 13, Section 7 "The State shall protect the right of subsistent fishermen, especially of local communities, to the preferential use of the communal marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research, adequate financial, production, and marketing assistance, and other services. The State shall also protect, develop, and conserve such resources. The protection shall extend to offshore fishing grounds of subsistence fishermen against foreign intrusion. Fish workers shall receive a just share from their labor in the utilization of marine and fishing resources"



2. Relevant provisions of R. A. 8550, the Philippine Fisheries Code of 1998;
3. Relevant provisions of R. A. 7160, the Local Government Code of 1991;
4. R. A. 9054 in its entirety (Expanded Organic Act of ARMM)
5. Relevant provisions of PD 705, otherwise known as the Forestry Reform Code of the Philippines;
6. R. A. 9275 "The Philippine Clear Water Act of 2004"
7. R. A. 8435 " The Agricultural Fisheries Modernization Act"
8. R. A. 9147 "The Wildlife Resources Conservation and Protection Act"
9. Radio Laws Control Act 3846 and other relevant NTC Issuances
10. Act 2590, an Act for the Protection of Game and Fish of 1916;
11. R. A. 1937 in its entirety, an Act to Revise and Codify the Tariff and Customs Laws of the Philippines
12. E.O. 236, series of 1995, Organizing the National Committee on Illegal Entrants, and relevant issuances of the National Committee on Illegal Entrants;
13. R. A. 9295, the Philippine Domestic Shipping and its Implementing Rules and Regulations;
14. Relevant provisions of R.A. 9147, an act providing for the conservation and protection of wildlife resources and their habitats, and its Implementing Rules and Regulations
15. E. O. 829, September 11, 1982, as amended by Executive Order No. 41 dated 9 December 1992, Creating the Law Enforcement Coordinating Committee;
16. Administrative Order No. 210, Delineating the functions, powers, and jurisdiction of the Presidential Anti-Crime Commission, the National Peace and Order Council, the National Law Enforcement Coordinating Committee and their Implementing Agencies;
17. E.O. 57, series of 2011, Establishing a National Coast Watch System, Providing for its Structure and Defining the Roles and Responsibilities of Member Agencies in Providing Coordinated Inter-Agency Maritime Security Operations and for Other Purposes;
18. Memoranda of Agreements with other government agencies
19. Relevant Fisheries Administrative Orders of the Department
20. Other relevant environmental laws

#### **B. GENERAL PRINCIPLES**

1. International laws, treaties and agreements signed by the Philippine government must always be observed;
2. National laws take precedence over special laws;
3. The Rules of Court on Search, Arrest, Seizure and Custodial Investigation shall apply in all operations;
4. The New Rules of Procedures for Environmental Cases;
5. Official interpretation of laws may only be issued by the judiciary however official opinion issued by the Department of Justice may be used as basis for enforcement purposes;
6. Internationally accepted Rules of Engagement shall apply in all operations.

**C. GOAL:** To effectively enforce the provisions of R.A. 8550 or the Philippine Fisheries Code of 1998 and other relevant laws.



#### **D. OPERATING INSTRUCTIONS**

To effectively systematize inter-operability of fishery law enforcement nationwide, a management system approach is adopted to emphasize an understanding of the whole law enforcement body, the significance of its levels (from national to regional level), and the value of interaction of the parts (operating units and other government law enforcement agencies). Thus:

1. The Director, Bureau of Fisheries and Aquatic Resources-Central Office shall serve as the over-all Chief of Fishery Law Enforcement of the Bureau duly assisted by the Chief of Fisheries Resource Protection and Law Enforcement Section. The Director is the sole source of authority pertaining to issuance of Letter Order related to the bringing of firearms of the Bureau.
2. The FRPLES in turn shall serve as the coordinating office for fishery law enforcers nationwide and special operating team for special concerns;
3. The Regional Director shall serve as Chief of Fishery Law Enforcement in the region duly supported by the Chief of Fisheries Regulatory and Law Enforcement Division who shall in turn serves as the head of the regional operating unit within his/her respective area of jurisdiction.
4. All planned operations must be covered with Mission/Travel Orders or any formal directive duly approved by the Bureau Director or Regional Director or his/her duly authorized representative for regional level operations.
5. Lateral coordination among and between regional fishery law enforcement units shall be authorized by the Bureau Director or his duly authorized representative;
6. In cases where regional law enforcement unit seeks the assistance of another regional team which shall be approved by the Bureau Director or his duly authorized representative, the responding/augmenting team and its team leader shall be automatically under the direct command of the RD or his/her duly authorized representative that has jurisdiction on the area being operated regardless of rank or designation. However, operations headed by the national fishery law enforcers shall be directly under the control and supervision of the Director;
7. During operations all members of the teams shall wear their official uniforms and carry their operational ID cards;
8. Cases deemed sensitive by the ORD must be referred immediately to the Office of the Director;
9. Complementation of assets, facilities, equipment, offices and manpower between and among participating GLEAs during fishery law enforcement operations is hereby authorized;
10. Heads of cooperating/participating GLEAs shall ensure that all their personnel are knowledgeable of the fishery law enforcement manual of operations;
11. The Chain of Command in the Fishery Law Enforcement must be observed at all times.
12. All team leaders shall ensure that the safety of operating team remain the paramount concern;
13. Coordination with other GLEAs and LGUs, whenever applicable is encouraged unless the integrity of the operation is compromised;



14. GLEAs (members of NALECC/RLECC) shall be furnished with the list of BFAR LEQRTs with identified Team Leader/s and alternates for their information;
15. Respect for human rights and due process under the Rules of Court must be observed at all times.

**E. CORE FUNCTIONS:**

1. Address issues pertaining to all forms of illegal fishing as enumerated under RA 8550, or the Fisheries Code of 1998, and Its Implementing Rules and Regulations, Fisheries Administrative Orders (FAOs), and such other fishery laws, rules and regulations and regional agreements;
2. Respond appropriately to emergency situations such as fish kills, marine mammal stranding, among others;
3. On duty for 24 hours/day at 7 days/week at their assigned/deployed areas;
4. Submit monthly accomplishments, apprehension reports , and incidence reports addressed to the Director, copy furnished to the all concerned; and
5. Perform such other duties and functions as may be assigned by the BFAR Director/RD from time to time.

**F. FISHERY LAW ENFORCEMENT CORE RESPONSIBILITIES/OPERATIONS:**

All aspects taken thereby in accomplishing the core responsibilities must be related to **fishery law enforcement** guided by the established protocol, and by the following major performance indicators:

1. *Monitoring and Information Gathering:*
  - a. Information gathering on various forms of illegal fishing activities (outputs: no. of reports on illegal fishing generated, no. of reports validated, establishment of regional database on illegal fishing)
  - b. Monitoring of situations in areas of special concerns (areas: Manila Bay, Panatag Shoal, Closed Seasons in Region IX and Visayan Sea, Taal Lake, Laguna Lake, Fish Refuge and Sanctuaries, Lake Mainit, Trans-boundary Movement of Turtles and Double Dead Fish, and Others)
2. *Awareness-raising Campaign/Capacity-Building (Skills) Enhancement:*
  - a. Information Drive/Caravan (No. of dialogue, caravan, etc with fisherfolk, fishing boat operators, LGUs and other sectors conducted)
  - b. Distribution of IEC materials on law enforcement (No. of IEC materials produced/reproduced)
  - c. Deputation of additional Fishery Law Enforcers
  - d. Certification of additional Fish Examiners
3. *Seaborne and Land-based Operations*
  - a. Seaborne patrol (IUUF) (no. of seaborne patrols conducted, no. of areas/municipalities considered as hotspots covered)
  - b. Mobile Checkpoints (no of fish carriers inspected including jeeps, etc.)



- c. Market and Landing Denial (no. of mall wet markets, ports, landing centers/points covered)
  - d. Actual Fish Examinations (no. of on-the-spot examination of fish conducted, no. of reports of fish examination submitted)
  - e. Collection/submission of fish samples for Laboratory Analysis (no. of fish samples submitted/examined)
4. **Emergency Response Operations:**
- a. Response/Technical Assistance to fish kill, red tide occurrences, oil spill, etc.  
(clean-up drive, establish mobile checkpoints, cordon off affected area, dismantling of illegal fish pens/structures, eviction of illegal occupants)
  - b. Salvage or Rescue of Stranded Marine Mammals (cordon off stranding area, retrieval and disposal of dead mammals)
5. **Search and Rescue, and Retrieval Operations:**
- a. Response to distress calls and force majeure at sea (no. of responses made, no. of rescues conducted, no. of affected fisherfolk/victims saved or rescued, no. of recovery conducted, nature of recovery)
  - b. Flashfloods (no. of responses made, no. of rescues conducted, no. of affected fisherfolk/victims saved or rescued, no. of recovery conducted, nature of recovery)
  - c. Assistance to recovery and retrieval operations (no. recovery/retrieval operations conducted, no. of affected fisherfolk/victims saved or rescued, no. of recovery conducted, nature of recovery)
6. **Boat Operation and Management:**
- a. Deployment of floating assets
  - b. Maneuvering/Piloting
  - c. General Check-up/Cleaning
  - d. Registration of patrol vessels
  - e. Dry-docking/ Maintenance (Change Oil)
7. **Coordination/Collaboration/Networking with other GLEAs/Regional Maritime/Fisheries Bodies**
- a. Attend to regional and/or initiate or conduct training, meetings, seminar workshops, conference, summit, assemblies with DENR, PNP, PCG, etc. related to fishery law enforcement (NALECC, NCWS, etc.)
  - b. Act as resource persons, lecturers, facilitators of conferences, seminars, and other activities related to fishery law enforcement.

**G. SUPPORT TO OPERATIONS:**

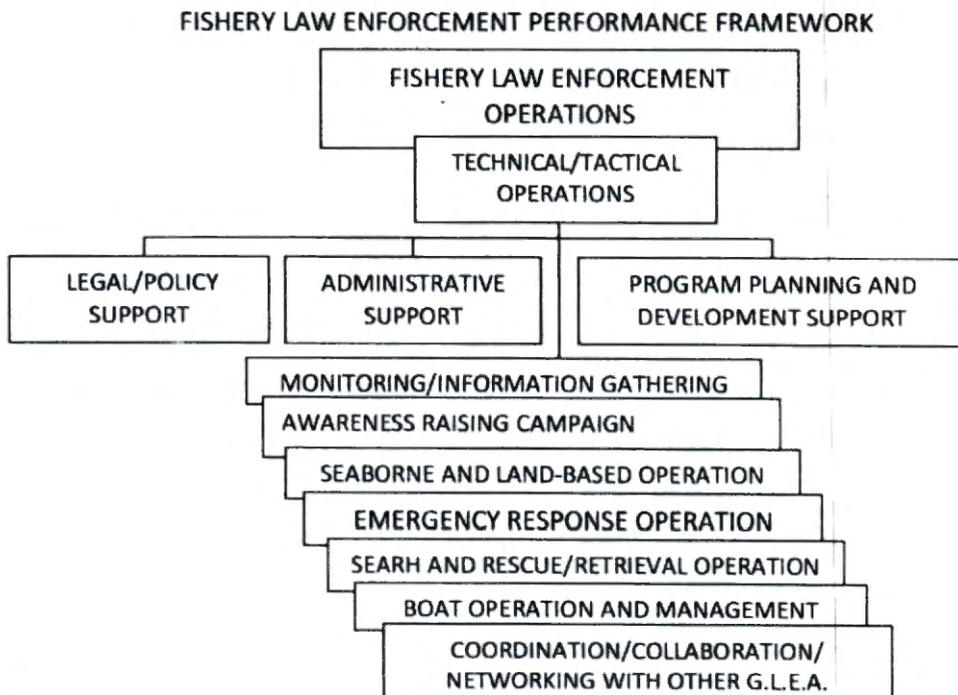
1. **Administrative Support**
- a. Preparation of Letter Orders (Mission), Fish Examiners' Identification Card, Travel Orders, Deployment Orders of Personnel, Memoranda, Service Contracts
  - b. Filing of Incoming and Outgoing Communications
  - c. Filing and Keeping of Records



- d. Production of Relevant Materials
  - e. Safekeeping of Properties
  - f. Procurement of Office Supplies, Materials, Equipment and other technical support
  - g. Payroll/Voucher Preparation
2. *Legal/Policy Support*
- a. Preparation of Fisheries Office Orders, Protocols, etc.
  - b. Preparation/Execution/Review of Affidavits, Complaints, Motions and Pleadings, etc.
  - c. Assistance in Filing Cases (Administrative and Criminal)
  - d. Acting as government witness
  - e. Coordination with the prosecutors and judges
3. *Program Planning and Development Support*
- a. Facilitation/Preparation of Project/Training Designs/Activity Proposals
  - b. Preparation/Submission of Accomplishment/Incidence Reports
  - c. Cuing of important activities related to FLE that need attendance of LEQRT Officers
  - d. Preparation of Plan of Operation/Action/Casing (Activity Plan)
  - e. Monitoring, Evaluation and Documentation of mission activities
  - f. Preparation of Plan for Project Review (Annual and Semi-Annual)

**H. FRAMEWORK FOR FISHERY LAW ENFORCEMENT CORE RESPONSIBILITIES**

This shall also be adopted by the Regional Fisheries Offices



**I. STANDARD GUIDELINES/RULES OF ENGAGEMENT ON LAW ENFORCEMENT  
(See details in the Fishery Law Enforcement Manual of Operation)**

1. Identify yourself by showing your Identification Card, Mission Order, Directive and /or related document of authority.
2. Conduct verification for possible violation of existing laws, rules and regulations.
3. Inform the person-in-charge or parties concerned of whatever specific violation (if any) or whatever findings observed thereof. Inform the person of his rights (Miranda Doctrine)
4. Initiate the gathering or taking of evidence to support the violation(s).
5. Take custody of all available evidence with proper receipt and conduct proper interrogation/investigation of the suspect(s)
6. Accomplish all necessary documents and properly preserve evidence to support appropriate charges/complaints to be filed with the appropriate body or proper court of jurisdiction.

**J. USE OF FIREARMS AND OTHER ARMAMENTS**

Restricted weapons will be authorized and issued by the BFAR for the primary purpose of providing protection to the enforcement officers authorized to enforce the Fisheries Code, Fisheries Administrative Orders and Local Ordinances. Officers will be trained and evaluated and their fitness to use such weapons will be re-evaluated at least annually.

If Fishery Law Enforcement personnel are confronted with situations that may necessitate the use of arms and other weapons to protect themselves during the conduct of operations in the enforcement of fishery laws, the following policies shall regulate the use of firearms and other armaments in order to prevent accident, minimize innocent civilian casualties and avoid damage to properties.

**a. Responsibility on the Usage of Firearms**

1. Firearms must be kept in a firearms vault and must only be taken out during operations;
2. The safety and usage of firearms during operation is the responsibility of the holder;
3. It is necessary for team leader to record the items regarding the usage of firearms and armaments in a record book;



4. The firearms and armaments should be examined to make sure that it is safe to be carried along by the operatives during operations;
5. All firearms and armaments must be cleaned and serviced after every operation;
6. Live and spent ammunitions must be inventoried and recorded in the book of arms registry

**b. Principles on the Use of Firearms and Armaments during Operations**

1. Firearms or other restricted weapons are to be used only in self-defense or in defending other innocent bystanders who appeared to be in life threatening situations;
2. Improper use of firearms against unarmed and innocent civilians and non-combatants may gain unpopular support, thereby gaining more enemies than friends;
3. Self-defense is an inalienable right of any individual person or station. The use of firearms and weapons should only be for level six situation (intend to cause substantial risk of death or serious bodily injury) that compel a nature of self-defense;
4. Refusal of fishing vessel/craft to submit to authority even in the face of an unacceptable risk is tantamount to acceptance of guilt of a serious offense, hence, maneuvers of the operatives should only be construed to intimidate or incapacitate violators;
5. Peaceful and persuasive effort to demand obedience from erring fishermen, boat operators/captain, and alien poachers should take precedence over violent means;
6. The preservation of life and properties should be pursuant under all situations as the safety of the people takes precedence over the infliction of casualties upon the violators and;
7. The use of force guidelines involving a restricted weapon must always be observed.

**c. Authority in Carrying Weapons**

1. Only firearms, weapons and ammunitions authorized and issued by BFAR may be used in the performance of duties under the Fisheries Code;
2. Any officer of the BFAR and other concerned agencies involved in the use of a restricted weapon must report the circumstances of such force to his immediate supervisor as soon as possible following the incident;
3. All reports on the use of force with a restricted weapon must be forwarded to the Director of BFAR or concerned agencies immediately following the reporting of the incident;



4. All reported incidences of use of force with a restricted weapon will be investigated by the BFAR or other concerned agencies and a full report with recommendation will be submitted to the Director within one month of receipt of the reported incident;
5. No person will carry an issued firearm unless that person has been authorized by the Director through a valid Letter Order. Further, the authorized firearm shall not be displayed in the office premises;
6. All fishery law enforcers shall be subjected to neuro-psychological and physical tests to be conducted annually; and
7. When the BFAR Director has reason to believe that an officer is no longer fit to carry a weapon for any reason, the Director may revoke the authorization for a period that he determines necessary for the re-qualification of the officer.

## K. USE OF FORCE

The law permits the use of force in the enforcement of the law. Such force as "reasonable necessary" is the governing principle. An officer should only use the minimum force necessary to carry out his duty. This implies a continuum of force that escalates according to the actions of the accused. It is not necessary to use physical force at all in cases where no physical resistance is being applied by the accused.

For the purpose, Fishery Law Enforcement Personnel will adopt the method used by the USA Coast Guard and Royal Canadian Mounted Police (RCMP) in Canada. This means the use of six (6) steps range of response continuum or levels of escalation to describe this concept which may prove useful as a guide. The steps involve are;

Level 1	-	Fishery Law Enforcement Officers presence
Level 2	-	Verbal Commands
Level 3	-	Soft, empty hand control
Level 4	-	Hard, empty hand control
Level 5	-	Intermediary weapon control
Level 6	-	Deadly force

The escalation to each level of force should be matched to the level of resistance being experienced. Only the minimal amount of force to control the suspect is justified. Some explanation is warranted for the various levels of force by fishery law enforcers, as follows:

- |           |   |
|-----------|---|
| Level One | <i>Requires our physical appearance/presence (to include the boarding team during seaborne operation) as often a requisite or essential to achieve compliance of the suspect.</i> |
| Level Two | <i>Requires the use of verbal commands with proper tone of voice, choice of words and inflection to effectively compel compliance of the suspect.</i>                             |



- Level Three *Requires the use of soft, empty hand control as a method of physical control which does not cause any soft or connective tissue damage laceration of the skin and/or bone fractures to compel compliance of suspect.*
- Level Four *Requires the use of hard, empty hand control as a method of physical control which has the probability of creating soft/connective tissue damage, laceration of the skin bone fractures to compel compliance of suspect.*
- Level Five *Requires the use of intermediary weapon as a method of mechanical control which has the probability of creating soft/connective tissue damage, laceration of the skin and bone fractures to compel compliance of suspect.*
- Level Six *Requires the use of deadly force to cause or create a substantial risk of death or serious bodily injury to compel compliance of suspect.*

*Note: these definitions are taken from the USCG Training Manual.*

**L. ESCALATING THE LEVEL OF FORCE:**

The use of force is subject to the discretion of the officer at the time of fishery law enforcement operation. These are some guidelines that all officers should use when escalating the level of force.

1. Passive resistance should not require escalation beyond level 3
2. Active resistance, that is the use of physical resistance with or without a weapon should result in the escalation to level 4 to 6 according to the amount of force necessary to compel compliance
3. The use of firearms is always considered a last resort. Even the drawing of the firearm should be justified on the basis of a real or perceived threat against the person of the officer or others in the area.
4. The use of deadly force is only contemplated when the situation justifies the use of deadly force and where the officer is acting to protect himself or others who are under the immediate threat of death or serious bodily injury.

**M. SAFEKEEPING OF FIREARMS DURING OPERATION AND POST-OPERATION:**

All firearms are licensed under the Bureau of Fisheries and Aquatic Resources, hence:

1. Only regular employees who are members of the Fishery Law Enforcement unit shall be issued Accountability Receipt of Equipment (ARE) for the firearms provided for the purpose of implementing fishery laws, rules and regulations, and orders;



2. Bringing of firearms during operation shall always be covered with proper authority or letter order;
3. All Letter Orders must be issued only by the Director of the Bureau which shall be kept by the accountable law enforcement officer/s and shall only be given to concerned operatives with the firearms during legitimate operations of the Bureau;
4. After the operation, all Letter Orders and firearms shall be turned over to the accountable law enforcement officer for safekeeping, unless danger on the part of the operatives is eminent which shall be determined by the accountable officer;
5. During operations, all law enforcement officers shall take charge of bringing firearms and shall always carry his official ID, corresponding letter orders, and always wear the official uniform;
6. A Safety Vault shall be provided by the office for safekeeping of firearms after the operation.

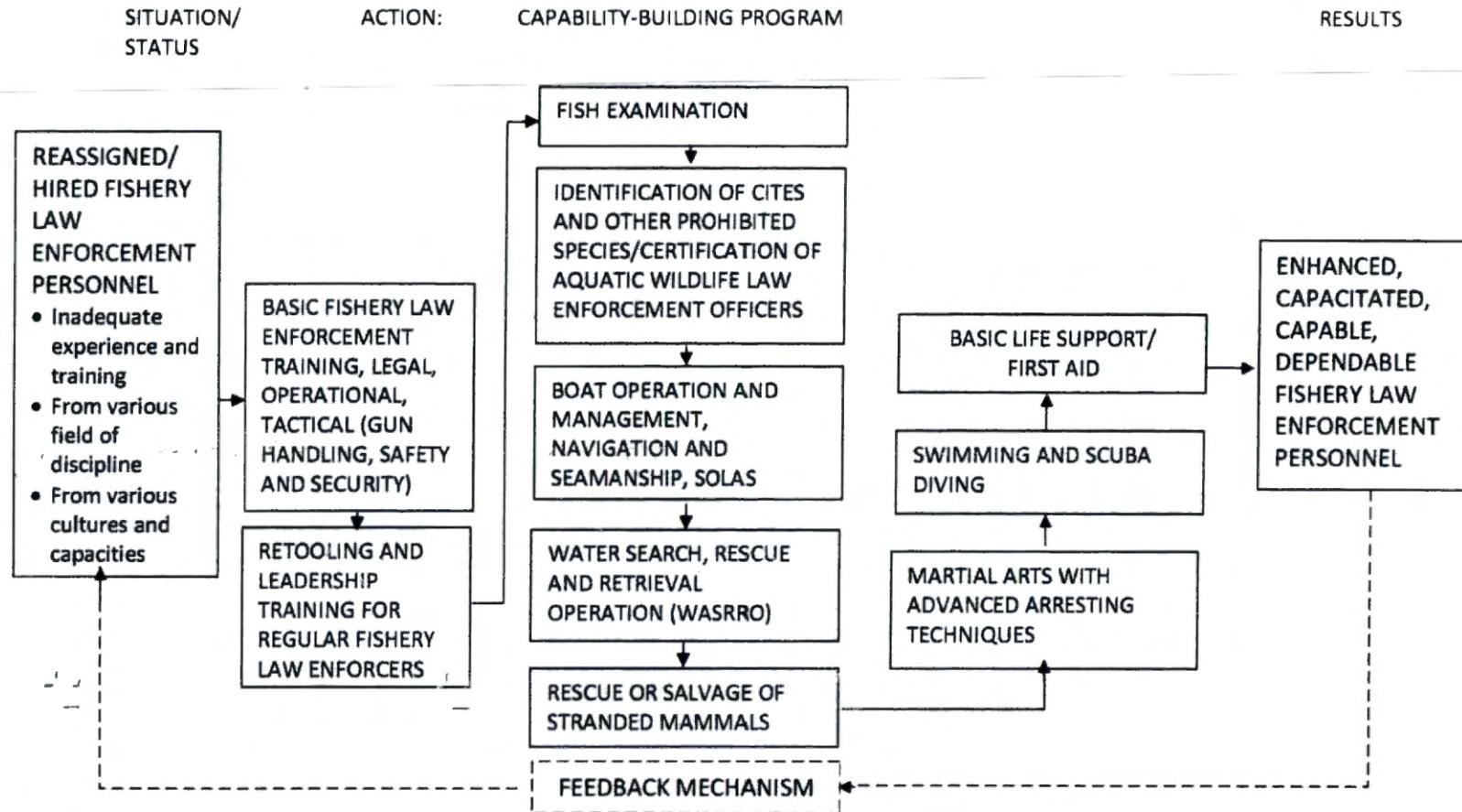
#### **N. CAPABILITY-BUILDING PROGRAM**

- i. A regular and continuous capability building program shall be conducted to develop and revitalize capacities of the all fishery law enforcement officers.
- ii. Special training shall be given to selected members for specific skills enhancement.
- iii. Below is the framework for developing capacities of the fishery law enforcement unit.



**O. CAPACITY-BUILDING PROGRAM designed for fishery law enforcers to be stable under pressure (survival under adverse situation)**

**FRAMEWORK FOR DEVELOPING CAPACITIES OF FISHERY LAW ENFORCEMENT**

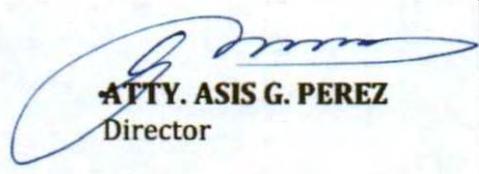


For guidance and compliance to all concerned.

Recommending Approval:



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