

[BFAR FISHERIES ADMINISTRATIVE ORDER NO. 238, January 09, 2012]

RULES AND REGULATIONS GOVERNING THE IMPLEMENTATION OF COUNCIL REGULATION (EC) NO. 1005/2008 ON THE CATCH CERTIFICATION SCHEME

*Adopted: 9 January 2012
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Whereas, the European Union (EU) adopted Council Regulation (EC) No. 1005/2008 on September 29, 2008, establishing a catch certification scheme for all marine fishery imports into the Community and Council Regulation (EC) No. 1010/2009 on October 22, 2009, providing its implementing rules;

Whereas, Article 12 of Council Regulation No. 1005/2008 prohibits the importation into the Community of fishery products obtained from illegal, unreported and unregulated (IUU) fishing and that fishery products shall only be imported into the Community when accompanied by a catch certificate validated by the flag State of the fishing vessel or fishing vessels which made the catches from which the fishery products have been obtained, certifying that such catches have been made in accordance with applicable laws, regulations and international conservation and management measures;

Whereas, the EU is one of the Philippines largest markets and importers of fishery products;

Whereas, the Country evaluation report of the EU of its evaluation of the Philippines' implementation of Council Regulation No. 1005/2008 undertaken on June 6 to 17, 2011, as part of the project entitled "*Accompanying developing countries in complying with the implementation of Regulation No. 1005/2008 on illegal, unreported and unregulated fishing,*" proposed several recommendations to enhance the country's implementation of said regulation;

Wherefore, in view of these premises, the following rules and regulations on the implementation of Council Regulation (EC) No. 1005/2008 is hereby adopted and promulgated for the information and compliance of all concerned.

**CHAPTER I.
General Provisions**

Section 1. Objectives. These rules and regulations aim to:

1. Comply with the provisions of Council Regulation No. 1005/2008 and its Implementing Guidelines.
2. Ensure traceability of fishery products derived from legal, reported and regulated fishing activities in the Philippines, at all stages from harvesting and processing to marketing;
3. Establish a mandatory set of procedures for the catch certification scheme; and
4. Ensure that fishery products exported to an EU-member country originate from catches made in compliance with applicable laws, regulations or conservation and management measures.

Section 2. Definition of Terms. For purposes of this Order, the following terms, phrases and acronyms shall mean:

a. Consignment – products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee;

b. DA-BFAR – Department of Agriculture-Bureau of Fisheries and Aquatic resources;

c. EU – European Union which is also synonymous to European Community;

d. Fishery products – marine aquatic species, in whatever form/state, which are not included in Annex I of Commission Regulation No. 86/2010. Said Annex I is reproduced as Annex 8 of this Administrative Order

e. Fishing – the taking of fishery species from their wild state or habitat, with or without the use of fishing vessels;

f. Illegal fishing – fishing conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations; conducted by vessels flying the flag of States that are parties to a relevant RFMO but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant RFMO;

g. IFP – International Fishing Permit;

h. IUU Fishing – illegal, unreported and unregulated fishing;

i. RCC – Regular Catch Certificate

j. RFMO – Regional Fisheries management Organization

k. SCC – Simplified Catch Certificate

l. Traceability – the ability to trace and follow a fishery product through all stages of fishing, storing, transporting, processing and distribution;

m. Transshipment – the unloading of all or any of the fish on board a fishing vessel to another fishing vessel either at sea or port as defined in the IUUF regulation.

n. Unreported fishing – fishing which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or undertaken in the area of competence of a relevant RFMO which have not been reported or have been misreported, in contravention of the reporting procedures of that organization;

o. Unregulated fishing – fishing in the area of application of a relevant RFMO that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or in areas or fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law;

p. IUUF Regulation – European Council regulation no. 1005/2008;

Section 3. Application. This Order shall apply to all Philippine-flagged fishing vessels that either directly supplies raw materials to EU-member countries or supply raw materials to canneries, processors or exporters for processing prior to the export of the processed fishery products to EU-member countries. This Order shall also apply to canneries, processors, and exporters which are exporting fishery products to EU-member countries.

Section 4. Declaration of Catch Landing and Transshipment. To ensure that the objectives of this Order are realized, catch landing and transshipment must always be recorded or declared.

- a.) Landing of catches shall be verified and certified by authorized BFAR personnel in a Catch Validation Certificate described in Section 13 and Annex 6 of this Administrative Order;
- b.) Transshipment shall be declared and reported by the vessel captain in a Transshipment Certificate described in Annex 5 of this Administrative Order.

Section 5. Prohibition. no fish or fishery products caught or taken by means of IUU fishing or without complete traceability in all its stages from fishing or gathering, storage, transporting, processing up to distribution shall be exported to EU-member countries, export of fishery product/s to EU-member countries shall only be allowed if supported by a Catch Certificate, which has been validated by DA-

BFAR.

Section 6. Sanctions. Non-compliance to the provisions of this Order or providing false information in the Catch Certificate and its documentary requirements shall be a ground for the non-issuance of Catch Certificate, delisting from the list of EU-accredited exporters and the filing of criminal complaint for violation of the rules on exportation.

CHAPTER II

The Regular Catch Certificate (RCC)

Section 7. Scope. This Chapter applies to catches obtained by fishing vessels that fall under the following criteria:

1. Fishing vessel with an overall length of more than 12 meters without towed gear or
2. Fishing vessel with an overall length of more than 8 meters with towed gear or with superstructure, or
3. Fishing vessel of more than measured 20 GT.

Section 8. Classifications of RCC. An RCC must only be accomplished by a fishing company. It is classified into:

1. Mother Catch Certificate – RCC issued at landing or prior to processing; or,
2. Consignment Catch Certificate – RCC issued after processing of catch in canneries or processing plants.

Section 9. Requirements. The following are the requirements for the issuance of RCC:

1. Duly accomplished fishing vessel logsheets, which must bear the signature or stamp of the vessel captain),
2. Copy of the Commercial Fishing Vessel/Gear License (CFVGL), and Certificate of Ownership (CO) and Certificate of Vessel Registry (CVR),
3. Transshipment Certificate issued by the fishing vessel captain and printed in paper bearing fishing company logo, accompanied with the fish carrier's Stowage Plan (if transshipment at sea or at port occurred),
4. Catch Validation Certificate issued by the concerned BFAR regional Office,
5. Original copy of Fish summary/sizing report which must be signed by the authorized representatives of the fishing company and the cannery).

Section 10. Additional Requirements. In addition to the requirements in Section 10 hereof, the following requirements for the issuance of RCC are applicable to

Philippine-flagged fishing vessels operating in the waters of Papua New Guinea (PNG):

1. Copy of IFP;
2. Copy of fishing license from PNG;
3. Original or authenticated copy of Fish Origin declaration Form issued by the National Fisheries Agency of PNG,

Section 11. Instructions in Accomplishing the Regular Catch Certificate.

1. The boxes, "**document number**" and "validation authority," are used to identify the document and the authority which validates it, and are therefore reserved for this purpose and must be filled in only by BFAR which is the validating authority;

2. The "**document number**" shall include the following:

- a. "ISO code for each Flag State" (608 in the case of the Philippines);
- b. "Identifying code for the competent authority" (BFAR + Region);
- c. "Company code";
- d. "Year of validation"; and,
- e. "Number in continuous series".

3. An example of a document number is "**608-BFAR12-FFC-2011-0001**," which is filed by Frabelle Fishing Corporation (FFC) in BFAR Region 12 and validated by that region. Annex 4 contains the list of codes of commercial fishing companies in the Philippines;

4. The information required in the box, "**Validating Authority**" such as "Name", "Address", "Tel" and "Fax" pertain to and shall be filled up by the BFAR, which information is specific to the concerned BFAR Central or regional Office;

5. The box, "**Vessel Details**," shall contain the details of the vessel, which shall be based on the information stated in the vessel's Commercial Fishing Vessel/Gear License (CFVGL). For a fishing vessel operating in PNG waters, the box on "Fishing License-Valid to" shall contain the IFP number, the IFP's expiry date, the vessel's PNG number and expiration date of its PNG license;

6. The box, "**Description of Product**", refers to the product form, such as, *frozen fish, canned tuna*, and the like. For the box "Type of processing authorized on board", the applicable terms shall be *freezing, brine freezing, ice chilling* and similar processing terminologies;

7. The "**Species Name and Product Code**" refer to the species' english name, scientific name and the product code respectively. The product code is based on its six-digit tariff code under the Harmonised System, which is made available online by the EC through the website <http://mkaccdb.eu.int> on the page on Applied Tariff database. To illustrate, for frozen skipjack, the scientific name shall be *Katsuwonus pelamis* and the product code shall be 0303.43;