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Amended Rules and Regulations Governing Fishing and Other Related Activities, Including the Construction and Operation of Fish Cages at Magat Reservoir in Ramon, Isabela

Pursuant to the Provisions of P.D. No. 693 dated May 7, 1975 authorizing the construction of the Magat Dam and Letter of Instruction 1002 dated March 20, 1980 giving authority to NIA to manage, protect, develop and rehabilitate the watershed area of Magat and other operational hydropower dam and water oriented projects, the following rules and regulations are hereby promulgated for the information and guidance of all concerned.

SECTION 1. Title of this Administrative Order - This Administrative Order shall be known as the "Rules and Regulations Governing Fishing and Other Related Activities, including the Construction and Operation of Fish Cages at the Magat Reservoir in Ramon, Isabela."

SECTION 2. Definition of Terms - as used in this Order, the following terms shall mean:

1. Magat Reservoir - a man-made body of water formed by the construction of the Magat High Dam Complex and located in the undeveloped mountains of the Cordillera Central Mountain Range. The reservoir extends upstream about 50 kilometers from the damsite to a point just downstream from the town of Bagabag, Nueva Vizcaya province and is not part of "Municipal Waters" as defined under Section 3, P.D. 704.

2. Fishing - the act of catching, trapping or taking fish from reservoir waters in the manners prescribed in this Order, exclusive of the growing and/or culturing of fish in fish cages.

3. Sustenance Fishing - fishing for domestic of family consumption with the use of one (1) hook and one (1) line, one (1) pole, and where the catch does not exceed five (5) kilograms per day.

4. Aquaculture - fishery operations involving all forms of raising and culturing fish and other fishery species in fresh, brackish and marine water areas.

5. Aquatic Pollution - the introduction by human or machine, directly or indirectly, of substances or energy to the aquatic environment which result or is likely to result in such deleterious effects as to harm living and non living aquatic resources, pose potential and/or real hazard to human health, hindrance to aquatic activities such as fishing and navigation, including dumping/disposal of waste and other marine litters, discharge of petroleum or residual products of petroleum or carbonaceous materials/substances, and other radioactive, noxious or harmful liquid, gaseous or solid substances from any water, land, air transport or other human-made structure. Deforestation, unsound agricultural practices such as the use of banned chemicals and excessive use of chemicals, intensive use of artificial fish feed, and wet land conversion, which cause similar hazards and deleterious effects shall also constitute aquatic pollution.

6. Fisheries - refers to all activities relating to the act or business of fishing, culturing, preserving, processing, marketing, developing, conserving and managing aquatic resources and the fishery areas, including the privilege to fish or take aquatic resources thereof.

7. Fish Cage - refers to an enclosure which is either stationary or floating made up of nets or screens sewn or

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fastened together and installed in the water with opening at the surface or covered and held in place by wooden/bamboo posts or various types of anchors and floats.

8. Fisherfolk - people directly or personally and physically engaged in taking and/or culturing and processing fishery and/or aquatic resources.

9. Fisherfolk Organization - an organized group, association, federation, alliance or an institution of fisherfolk which has at least fifteen (15) members, a set of officers and constitution and by laws, an organizational structure and a program of action.

10. Fishery Operator - one who owns and provides the means including land, labor, capital, fishing gears and vessels, but does not personally engage in fishery.

11. Fishery Refuge & Sanctuaries - a designated area where fishing or other forms of activities which may damage the ecosystem of the area is prohibited and human access may be restricted.

12. Fisherfolk Cooperative - a duly registered association of fisherfolks with a common bond of interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contribution to the capital requirement and accepting a fair share of the risk and benefits of the undertakings in accordance with universally accepted cooperative principles.

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

14. Sport Fishing - fishing with the use of one (1) hook, one (1) line, one (1) pole, extended only to visitors and tourist and unless the catch does not exceed ten (10) fish per day.

15. Small Scale Commercial Fishing - fishing where the purpose is to catch fish for commercial scale, beyond sport or sustenance fishing.

16. Fishing Gear - any instrument or equipment used to catch or take fish.

17. Fishing Permit - a privilege granted by the NIA or his duly authorized representative to the holder of a permit, to fish at the reservoir of the Magat Dam, subject to the conditions, limitations and restrictions herein provided.

18. O & M Fee - is the fee collected from fisherfolk for every kilogram of fish landed at the Fish Landing Point to subsidize O & M expenses incurred relative to the development and protection of the Magat Reservoir.

19. Bonafide Resident Fisherman - shall refer to those fishermen who have established permanent residence and actually resided in the reservoir towns of Ifugao, Isabela and Nueva Vizcaya for a period of at least six (6) months prior to the filing of the application for permit.

20. Research Institutions - shall refer to the organizations, domestic or international, authorized to operate under Philippine Laws and explicitly authorized by their respective charters to engage in studies and experimentations aimed at the improvement/advancement of fish culture techniques and practices.

21. NIA - National Irrigation Administration

22. Administrator - the Administrator of the National Irrigation Administration.

23. FARMC - Fisheries and Aquatic Resources Management Council.

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24. IFARMC - Integrated Fisheries and Aquatic Resources Management Council.

25. Fishing Belt Area - area identified by NIA suitable for fishing operation, otherwise known as "Purok".

26. Floating House - is a shelter made of light materials with a dimension not larger than 2 1/2m x 3 m just enough to accommodate two (2) caretakers/persons.

SECTION 3. Required Permits - Any persons, partnership, association, corporation, research institution or other aggrupation desiring to fish and/or construct and operate fish cages in the Magat Reservoir shall first obtain permit from NIA and pay the corresponding fees, bonds, and other charges due therefor.

a. For Fishing - any person, partnership, association, corporation, research institution or other aggrupation desiring to fish in the Magat Reservoir shall first obtain a permit from NIA and pay the corresponding fees, and submit Identification Cards and Residence Certificate as a pre-requisite.

b. Fish Cage Operation - the following shall be qualified to obtain fish cage permit:

- Filipino, of legal age and duly registered fisherfolk of the reservoir towns of Isabela, Ifugao and Nueva Vizcaya;

- Research Institutions engaged in Fishery development;

- Fisherfolk association, corporation, partnerships, cooperatives duly registered as such under Philippine Laws;

- Other aggrupation of local residents being promoted and supported by the government.

In issuing said permits, the NIA shall be guided by the following order of preference:

a. Fishermen's cooperatives in the reservoir towns of Isabela, Nueva Vizcaya and Ifugao;
b. Associations and/or aggrupations of bona fide resident fishermen of the reservoir towns of Isabela, Nueva Vizcaya and Ifugao;
c. Bona fide resident fishermen of the reservoir towns of Isabela, Nueva Vizcaya and Ifugao;
d. Corporations, partnerships or other aggrupations;
e. Research institutions.

For the purpose of determining bona fide residence in the reservoir towns of Isabela, Nueva Vizcaya and Ifugao, a certification of the Mayor of the reservoir town concerned as recommended by the FARMC Chairman of the Municipality, shall be submitted, together with the application for permit.

SECTION 4. Fishing Gear Allowed - Fishing gears allowed for catching fish are as follows:

a. Gill Net (Sigay) - Gill net is a curtain like net consisting of one or more rectangular units connected with each other entangles fish by the gills.

b. Long Line (Kitang) - A long horizontal line with a series of branch lines attached with baited hook at the end.

c. Cast Net (Tabukol) - A conical net provided with lead sinkers at lower line, which is thrown by hand to fall flat upon the surface of the water to cover the fish.

d. Bobo (Serreg) - A fish trap made of woven fine bamboo splints sometimes provided with a non-return valve (Serreg) at the gate opening to prevent escape of fish.

e. Pole & Line (Liwliw) a pole with single line attached to one end of a pole with one or more baited hooks and sinker.

f. Spear - A fishing instrument made of rod with barb, generally thrown by hand or fired from a gun-like or

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bow-like device.

SECTION 5. Restrictions

a. No permit shall be issued for the construction of fish cages outside the areas specified by NIA or any duly approved modifications thereof;

b. No fisherfolk or fishing boat is allowed at any time to enter or fish in the Magat High Dam Reservoir Fish Sanctuary one kilometer upstream from the High Dam indicated and marked by the NIA as a restricted area;

c. No fish pen shall be constructed at any place within the reservoir;

d. The minimum distance between any two fish cages shall be:

1. Twenty (20) meters when they are owned by different individuals
2. Five (5) meters when they are owned by same individual

e. No fish cages shall be constructed within designated navigation channels or at river outlets;

f. Subject to the Provisions of Section 11 (e) hereof, permits shall be granted only over reservoir areas of not more than one thousand (1,000) square meters for individuals and not more than ten thousand (10,000) square meters for cooperatives, associations, corporations, partnerships, research institutions or other aggrupations; Provided, however, That in determining the extent of the area to be covered by the permit, the financial capacity of the applicant to undertake the project shall be taken into consideration;

g. All persons fishing during night time shall have a light in his fishing boat sufficiently bright for proper identification of his presence in the reservoir. Persons fishing during night time without light are presumed to be poaching in the area and shall be restrained from fishing by NIA and FARMC authorities.

h. All fishermen and fishing boats shall bring and unload their catch to fish landing points designated by the NIA. These fish landing points shall be indicated by signboards. No fish catch shall be landed at any other point except at these designated landing points. Other fish landing points shall be designated in coordination with FARMC's.

i. No permit shall be issued to any individual owning more than 5% of the total interest or subscribed capital stock of more than two (2) corporations, associations, partnerships, cooperatives, or other aggrupations in whose favor a fish cage permit has been duly issued, or any of whose stockholders/members own more than 5% of the total interest or subscribed capital stock of more than two (2) other corporations, aggrupations in whose favor fish cage permit has been duly issued; Provided, That the foregoing restrictions shall not apply to government-owned or controlled corporations;

j. All bancas or boats used for fishing shall be registered with the National Irrigation Administration and shall be permanently marked or tagged with the color code and number;

k. Sport fishing, sustenance fishing and small scale commercial fishing shall be allowed in the Reservoir but only at designated areas identified by NIA for the convenience as well as for the protection of the fishermen;

l. No fishermen shall set in the Reservoir, at any one time, gill nets or nets the total length of which shall be more than 500 meters. The minimum stretch mesh shall be less than six (6) centimeters (No. 5);

m. No construction of any kind shall be allowed along the banks of the reservoir without permission from the NIA Mouth of coves or channels shall not be covered or closed with nets, or any material.

n. No floating house of semi-permanent type is allowed in the reservoir.

o. Raising of animals shall not be allowed in the floating house.

SECTION 6. Permit for the Exclusive Use of Permittee or Beneficiary. Unless otherwise provided in the permit, the permit issued pursuant to these rules and regulations shall be for the exclusive use and benefits of the permittee. Any transfer of rights and/or privileges other than by hereditary succession shall be null and void unless made with the prior written approval of the NIA.

Transfer by hereditary succession shall be valid only if the successor(s) has all the qualifications and none of the disqualifications provided herein for a permittee. For this purpose, the transferee/s shall within six (6) months from the date of the death of the original permittee submit to the NIA an affidavit attesting that he (they) possesses all the qualifications and none of the disqualifications of a permittee and that the original permittee has complied with all general and special conditions contained in his permit. Such affidavit shall be accompanied with proof of the death of the original permittee. Failure to submit any or all the documents aforementioned shall cause the automatic revocation of the existing permit upon the termination of the period above prescribed and continued operation of the fish cage concerned shall render the operator liable to the penalties provided in Section 14 hereof. Where warranted by the circumstances, the NIA may in its discretion, impose additional conditions in the said fish cage permit.

SECTION 7. Duration of Permit

a. Fishing - The small-scale commercial permit and the sustenance fishing permit shall be valid from January to December each year. The sport fishing permit shall be for the period of one (1), three (3) or seven (7) days as the case maybe, as indicated in the permit. Permits are subject to renewal upon payment of the corresponding fees.

b. Fish Cage Permit - Permit shall be valid for a period of one year (from January to December each year); Provided, That applications for renewal shall be every January each year subject to existing rules and regulations; Provided, Further, That it shall be a condition precedent to the approval of any renewal of permit that all annual fees and charges due shall have been paid in full.

SECTION 8. Annual Permit Fee and Landing Fees

a. Fishing - there shall be paid to NIA or his duly authorized representatives a permit fee according to the following schedules:

1. Small-scale Commercial Fishing P200.00 per year

2. Sustenance Fishing 50.00 per year

3. Sport Fishing 10.00 per day/person

25.00 for 3 days/person

50.00 for 7 days/person

The full amount of the prescribed fee shall be paid upon the issuance of a permit.

b. Fish Cages - There shall be paid to NIA an annual permit fee of two pesos (P2.00) per square meter occupied. Failure to pay the annual fee within the period prescribed shall be subjected to surcharges as indicated in the following schedule:

1. 1st Quarter -

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10%

2. 2nd Quarter -

15%

3. 3rd Quarter -

20%

4. 4th Quarter -

30%

If after one year he failed to pay the prescribed fee, permit shall be cancelled and fish cages shall be dismantled.

c. O & M Fee - An O & M fee of P0.50 will be charged for every kilogram of fish landed by every fisherfolk.

d. Bonds - There shall be paid to NIA a cash bond in the amount of P100.00/unit of fish cage constructed payable upon registration.

SECTION 9. Procedural Requirements

a. Fishing - Applications for fishing permits shall be on forms prescribed by the NIA which shall contain among other matters the condition that the applicant shall be bound by the provisions of this Order. Such application forms shall be secured from the Office of the NIA designated for the purpose.

b. Fishcage - An application for permit to construct and operate fish cages or renewal thereof shall be made on official forms which may be obtained from the Office of the NIA. The application shall be filed in quadruplicate and shall contain the pertinent data regarding the applicant and a description of the definite portion of the lake area desired so as to preclude doubt as to its exact location and shall be accomplished with the following:

1. Individuals:

i. Map indicating the project site
ii. Certification of bona fide residence (when applicable)
iii. ID Picture, Residence Certificate
iv. Recommendation from the Purok Leader

2. Corporations, Associations and Other Aggrupations

- Original Articles of Incorporation or Partnership and Certificate of Reg istration, duly certified by the appropriate government office;

- Latest Articles of Incorporation or Partnership and by laws, duly certi fied by the appropriate government office;

- Xerox copy of Income Tax Return for the preceding years;

- Financial Statement for the preceding year duly certified by a CPA;

- List of stockholders or members as of at least two (2) months prior to the filing of the application;

- Board Resolution designating the authorized representative of the cor poration, association

- other aggrupation;

- Project Data Sheet;

- Map indicating the Project Site;

- Certification of bona fide residence (when applicable)

The NIA may require such additional documents or data it may deem necessary to evaluate the qualifications of the applicant.

If the NIA find that the applicant has satisfactorily complied with all the requirements, it shall issue a permit accordingly: Provided, However, that the NIA shall act on the application papers within thirty (30) days from submission thereof unless the NIA should require additional or supplementary documents in which case the running of the thirty (30) day period shall be suspended until after the required documents are submitted.

In the event more than one application is submitted covering the same area, all circumstances being equal, the application filed first shall take precedence provided in Sec. 3, par. 2 and the priority granted under Sec. 11 (f) thereof.

SECTION 10. Application Fee - For every application for permit or renewal thereof filed, an application fee in the amount of TWENTY PESOS (P20.00) shall be paid to the NIA upon filing of said application.

SECTION 11. General Conditions. - Permits issued pursuant to these rules and regulations shall be subject to the following general conditions.

Nothing in the permit shall be construed as to allow the permittee the right to obstruct the free navigation of the reservoir.

a. The Permittee agrees unconditionally to comply with these rules and regulations and all existing laws, rules and regulations governing fish cage operations or those that may hereafter be promulgated.

b. The Permittee assumes responsibility for any and all acts of his/its agents and employees, contractors and their employees connected with the construction and operation of the fish cage and other activities related to the fish cage operations including the removal of obstruction such as water lilies, unserviceable bamboo floaters, nets, sack, plastic bags and others. It is understood that such responsibility extends damages to persons or properties.

c. Failure to pay fee when due as prescribed shall be sufficient ground for the cancellation of said permit

d. In the event the permittee should fail to develop at least fifty (50%) percent of the project area within one (1) year from the date of issuance of the permit, the NIA may, in its discretion, cancel the permits, reduce the project area covered by the permit or modify the terms and conditions of the same.

e. The NIA may, at any time revoke the permit or reduce, or increase the area covered by the same or change or modify the terms and conditions thereof, or the same may be made to expire at an earlier date, when the public interest so requires; Provided, That in case the permit is revoked, the permittee shall be allowed sufficient time to find another location; Provided, Further, That any permittee whose permit has been revoked pursuant to this subsection, shall be given priority over other applicants in subsequent grants of the privilege to construct and operate fish cages.

f. In case operation is made to terminate for non compliance with these rules and regulations, and/or any of the terms and conditions of the permit, or in case the Permittee Voluntarily elects to terminate operations, the permittee shall have sixty (60) days from the date of termination within which to remove all stakes and at his own expense. For this purpose, the NIA shall require the permittee to file a bond in the amount of P100.00/unit to guarantee said removal. In case of failure to remove such stakes and support facilities within the prescribed period, the NIA has the option to make such removal to permittee's expense chargeable against the bond that has been posted without prejudice to the imposition of the penalties prescribed in Sec. 14 hereof.

g. The permittee shall not engage in any activities that will pose problems on reservoir pollution or water quality management and control;

h. The permittee shall adopt proper fish cage management technology

i. In case of mass death of the fish in the fish cages covered by a permit, the permittee shall immediately inform the NIA in writing of such death and shall comply with any and all directives that the NIA may issue on the matter. In case of calamities or force majeure, the permittee shall report immediately the extent of damages on his/her fish cages.

j. The permittee shall report his fish cage production per cropping or fish catch to the fisherfolk leader for submission to NIA.

k. Fishing boats (motorized & non-motorized) to be used in the reservoir should first be registered and documented with the MARINA, through the PCG (Sec. 17, PD 704) before registration and licensing by the NIA.

SECTION 12. Inspection - NIA shall conduct periodic inspection to determine compliance with the terms and conditions of the permit and applicable rules and regulations. It may seek assistance of MFARMC and IFARMC towards this end.

SECTION 13. Special Conditions - The NIA in consultation with MFARMC and IFARMC may impose such additional terms and conditions as may be necessary to carry out the objective of the rules and regulations herein set forth.

SECTION 14. Penalties.

a. Any person, partnership, association, corporation, cooperative or other aggrupation found violating any of the provisions of these rules and regulations or the terms and conditions of the permit as determined by NIA and FARMC, shall be punished for each offense by a fine not exceeding FIVE THOUSAND PESOS (P5,000.00) in addition to forfeiture of the bond;

b. Any fishing boat and/or fisherfolk found to have in its/his possession contraband goods forest products and wildlife taken from the Watershed area including forest products with no legal documents or any material belonging to NIA or NPC shall be subjected to criminal prosecution. The permit shall be likewise cancelled and the fishing boat immediately confiscated.

c. Any fisherfolk using explosives, poisonous substances, electro fishing and fine meshed nets or screens shall be prosecuted pursuant to and in accordance with R.A. 8550;

d. Any person, partnership, association, corporation, cooperative or aggrupation found to have constructed fish cages without first obtaining the required permit shall pay, in addition to the penalty imposed above, the required annual fees for the area which he has occupied without permit computed from the date of said violation.

SECTION 15. Additional Rules and Regulations - The NIA in coordination with FARMCs, BFAR CAR/Region 02, NPC, and other agencies tasked in the development of the fishery sector may promulgate additional rules and regulations consistent with existing laws.

SECTION 16. Separability Clause - In case any provision of these rules and regulations are declared void, illegal or suspended by the courts, the other provisions of these rules and regulations shall continue in full force and in effect, shall not be affected, impaired or invalidated by such suspension or declaration of nullity or illegality.

SECTION 17. Effectivity - These amended rules and regulations shall take effect thirty (30) days after approval of

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NIA Board of Directors and after publication in the OG and registration with the Office of the National Administrative Register pursuant to Book VII, Chapter II, Sections 3-4, of Executive Order No. 292 (Administrative Code of 1987).

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