

PANAMA'S LAW ON FISHERIES AND AQUACULTURE

A COMPENDIUM BY
MARVIVA FOUNDATION

Credits

Editors:

Carlos Vergara Chen
Tania Arosemena Boderó

General Manager:

Jorge A. Jiménez R.

Editorial coordination:

Juan M. Posada L.
Magdalena Velázquez Jaimes-Freyre

Internal reviewers:

Annisamyd Del Cid González
Ligia Rodríguez Cervantes

Photographs:

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Vanessa Caballero

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Presentation



Fishing and aquaculture activities are mediated by factors that are of a biological, ecosystemic, sanitary and economic nature, which determine the need to apply a series of rules that originate from different legal systems, in order to regulate their implementation. For this reason, it is necessary to direct efforts towards the strengthening of the legislation that regulates fishing activities and that this is known and put into practice by all economic stakeholders involved in these activities at the national and international level.

National fishing history shows a sector that has had an important expansion in the last 60 years, encouraged by several measures aimed at promoting the installation of companies and the entry of vessels into the country. This was addressed through Decree Law No. 17 of 9 July 1959 (Decree Law 17, 1959), which regulated both fishing and the export of fishery resources¹ in Panama. From the 1970s onwards, landings began to reach record highs and generated issues of over-investment in fishing, which led to the overexploitation of resources. In 2016, the revision of the 1959 Law began, which ended with the adoption and implementation of Law No. 204 of 18 March 2021 (Law 204, 2021), which comprehensively regulates fishing and aquaculture activities in the Republic of Panama and dictates other provisions.

For fishers, ship owners and fish farmers who are engaged in the exploitation and use of fishery and aquaculture resources², as well as for the general public, it is essential to know the current legislation applicable to these resources. Therefore, the purpose of this document is to disseminate, in a didactic and easy to understand format, the contents of the current Law, seeking to contribute to its effective application. The intention is to change and improve productive and social practices in the country, under a model of sustainable development to which we must all be committed.

Jorge A. Jiménez R.
Executive Director
Marviva Foundation

¹ That part of the hydrobiological resources that are or could be subject to capture or extraction in fishing operations duly authorized by the legislation in force in the country, for the purpose of direct consumption, commercialization, processing, study, research, recreation or other socio-economic benefits.

² That which is or could be used in operations of cultivation of hydrobiological organisms, under certain controlled conditions to varying degrees according to their characteristics, for food production, consumption, study, research, processing, recreation, marketing or other purposes.



The Law and the activities it regulates

Why is it necessary for fishing and aquaculture activities to be regulated by law?

Hydrobiological resources are those organisms (animals or plants) whose life cycle takes place completely or partially in an aquatic environment (marine or continental), fulfilling a role in the ecosystem where they develop and that can be potentially exploited by mankind directly or indirectly. As they are in the public domain, actions by the State are required to manage, promote and control fishing and aquaculture activities, with the aim of ensuring their sustainable use. This is even recognized in the National Constitution of

the Republic of Panama (2004), in Article 120, which establishes the duty of the State to regulate, supervise and apply in a timely manner the necessary measures to guarantee the rational use and exploitation of river and marine fauna, in order to avoid its depredation and ensure its preservation, renewal and permanence.

What are the main differences between fishing and aquaculture activities?

FISHING

Is based on the capture of fish, molluscs, crustaceans and other animals found in the wild, using different methods. There are different types of fishing and they can be classified according to the volume of the catch, the method of extraction of the fish, the location of the fishing and whether it is done in the sea or in rivers and lakes.

AQUACULTURE

Is much more similar to agriculture and animal husbandry than to fishing, as it involves the rearing and management of aquaculture resources in a restricted environment. Unlike fishing, which involves the capture of common or freely accessible aquatic resources, aquaculture involves the existence of tenure and ownership rights to these resources. Ownership of the means of production and property rights over production are as important to the success of aquaculture as land tenure is to agriculture and/or animal husbandry.

Why should fisheries and aquaculture be dealt with in the same law?

The relationship between fisheries and aquaculture is closer than it may seem at first. Both activities share the need to exploit the different living aquatic resources, as well as the technical knowledge and the social and economic aspects involved in their development. They also share spaces, many aquaculture farms are located close to fishing areas. In fact, a small part of the catch is used to manufacture the

feed and meal used to feed the invertebrates and fish bred in captivity. The key words that differentiate the two activities are extraction (fishing) and rearing (aquaculture). For these reasons, the legislators decided to combine both activities under one single law.



Relevant entities and their roles

What is the national governing body for the management of fishery and aquaculture resources in Panama?

The Aquatic Resources Authority of Panama (ARAP, from its initials in Spanish) is in charge of designing and evaluating policies, plans, programs and projects for the strengthening of fishery and aquaculture chains in issues related to production, the definition of species and volumes to be extracted, their catch sizes, technical assistance, marketing, promotion of associations, productive alliances, generation of added values, business and labour formalization, productive infrastruc-

ture, insertion in international markets, information generation, research, promotion and/or adoption of norms, application of sanctions within its administrative competences, integral management and sustainable development of aquatic resources.

What other institutions are involved in fisheries and aquaculture management?

Although the management of fisheries and aquaculture is under the competence of the ARAP, it is recognized that other state entities can or should participate in its different phases, among them:

Ministry of Agricultural Development
(MIDA, for its acronym in Spanish):

It intervenes in the promotion, regulation and application of measures for the prevention, diagnosis, research, control and eradication of diseases and/or pests that affect aquatic resources and it contributes to public health and environmental protection. This entity presides over the ARAP Board of Directors, which it represents before the Executive Body, and participates in multisectoral coordination bodies linked to fishing and aquaculture activity.

Ministry of Health **(MINSA, for its acronym in Spanish)** and provincial health authorities:

It works in everything related to the health of fishery and aquaculture products, their quality control, sanitary records, supervision and monitoring of processing establishments, food packaging and marketing.

Ministry of Environment
(MiAMBIENTE, for its acronym in Spanish):

It participates in the granting of water licenses and concessions, as well as dumping permits, both in processing plants and aquaculture facilities. It also governs fisheries management in marine protected areas and special management zones.

Panama Maritime Authority
(AMP, for its acronym in Spanish):

It is in charge of implementing established regulations, and of granting permissions to put to sea, navigation control, beach use and coastal marine areas concessions, seafarers, and others.

Ministry of Commerce and Industries **(MICI, for its acronym in Spanish):**

It performs functions related to national and international trade of fishery and aquaculture products.

Ministry of Labor and Labor Development **(MITRADEL, for its acronym in Spanish):**

It deals with issues related to work on land and on board fishing vessels.

National Land Administration Authority **(ANATI, for its acronym in Spanish):**

It intervenes in the fulfillment and application of policies and norms as regards to land and goods of public use and domain; and in the processes of urban land planning.

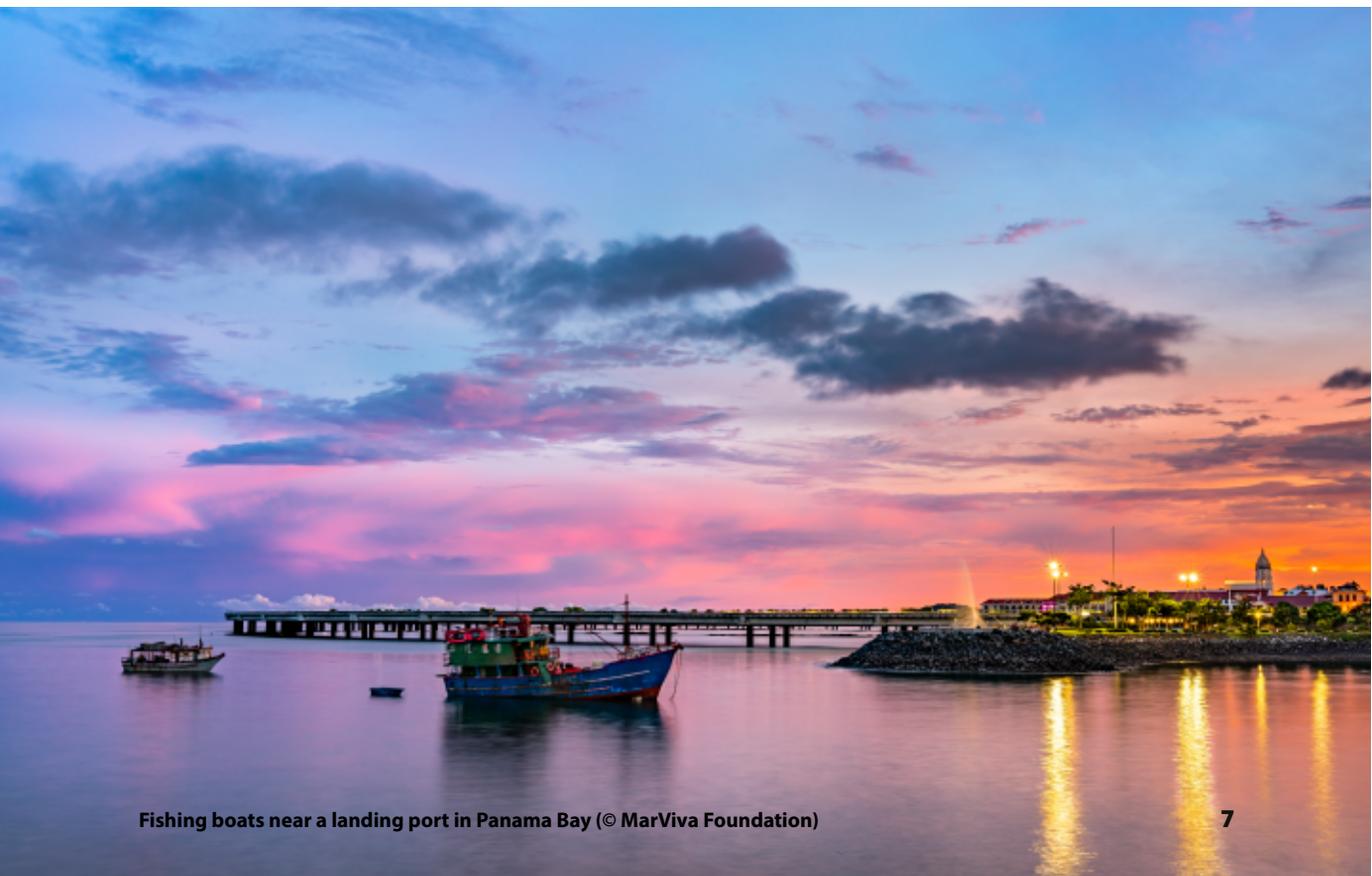
Finally, the provincial and municipal administrations (governors' and mayors' offices) are involved in matters related to land use and administrative aspects for the operation of commercial establishments and activities related³ to fishing and aquaculture. In addition, other State entities that are involved in the sector can be mentioned, such as the Ministry of the Presidency, the Ministry of Economy and Finance (MEF, for its acronym in Spanish), chambers of commerce, public service providers and universities.

³ Those derived from fishing and aquaculture that, at some point, directly or indirectly, complement them.

What multi-sectoral bodies are recognized in the Law?

The acknowledged multi-sectoral entities include representatives of the scientific community, NGOs, government institutions, and productive sector. These are:

- The **National Commission for Responsible Fishing**, which is a consultative body created with the objective of recommending initiatives for the sustainable development of the fishing sector, through the policies and measures required to regulate fishing activity in Panama, and
- The **National Aquaculture Commission**, which provides advice and consultation related to the optimal use of aquaculture resources, by promoting scientific research, management and policies, among others.





Scope, purpose and guiding principles

What is the focus of the Law?

The Law on Fisheries and Aquaculture has a general scope, applicable to all fisheries, aquaculture farming and related activities in marine and inland waters and to people working at all stages of the sector's value chain. Its purpose is to lay the foundations so that its stakeholders, fishers, fish farmers and other sectors in the production chain and related activities, can benefit from the recovery of overfished stocks and their maintenance at an optimal level in the long term.

What are the principles that govern it?

There are six (6) general principles of the fisheries and aquaculture sector that should prevail in ARAP's management, as follows:

1) Sustainability:

The use of aquatic ecosystems and their resources should be achieved through responsible fishing and aquaculture practices that allow their benefits to be enjoyed by present and future generations.

2) Precautionary approach:

The conservation, management and use of living aquatic resources should take into account the best available scientific data. In the absence of adequate scientific information, in situations of danger of serious and irreversible damage, the adoption of cost-effective measures to avoid environmental degradation should not be postponed.

3) Citizen participation:

Involves fishing and aquaculture organizations, their communities and their families related to fishing and aquaculture activities being able to express their opinions and act in the execution of the Law, policies and consequent actions.

4) Cooperation:

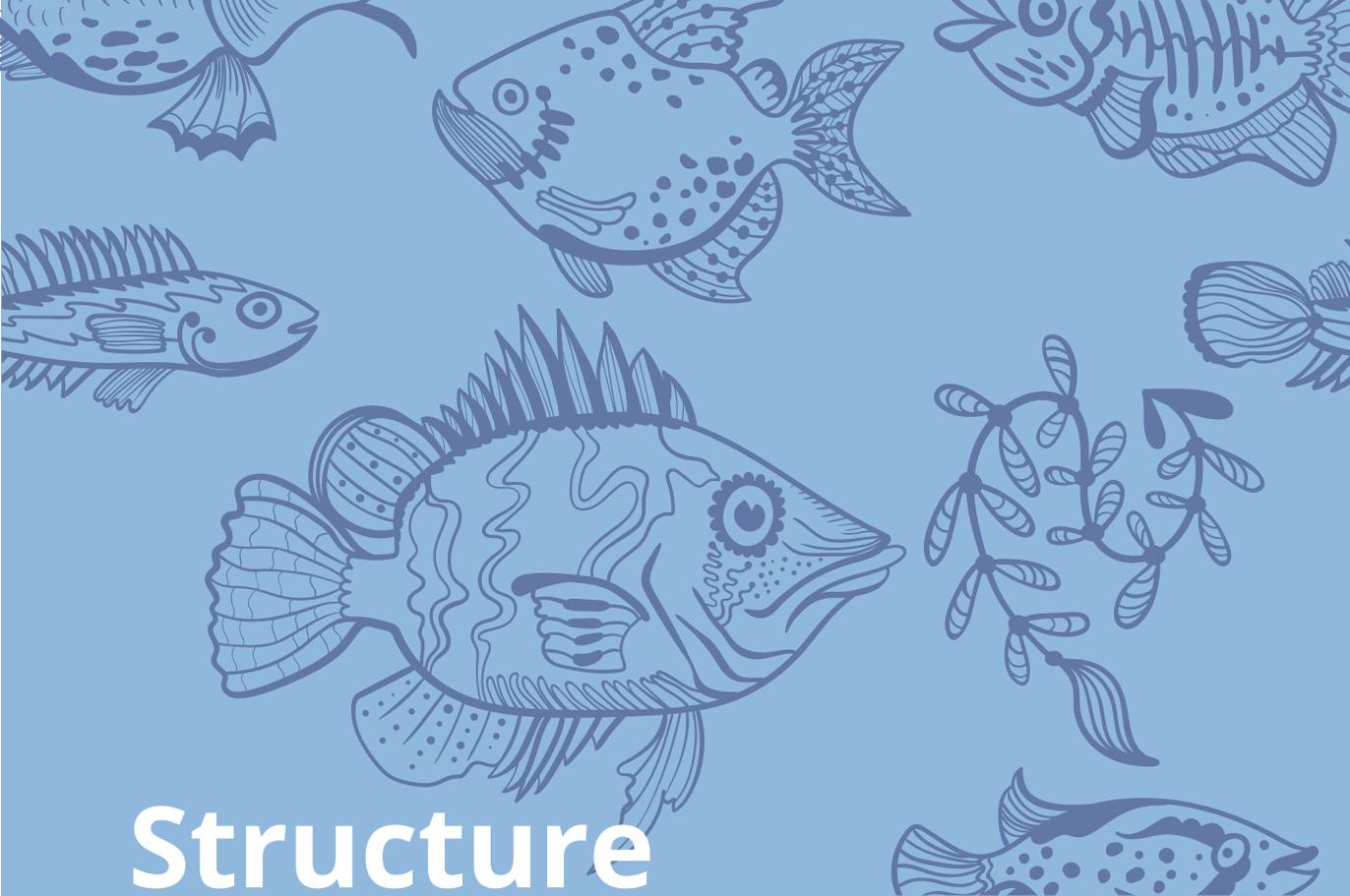
Emphasizes the importance of the willingness of key actors to collaborate for the integral development of all sectors.

5) Prevention:

The drive to act with due diligence in anticipation of adverse effects, avoiding or mitigating their harmful consequences.

6) Ecosystem approach:

It proposes an integrated management of land, water and living resources, aiming at conservation and sustainable use in an equitable way.



Structure

The Law on Fisheries and Aquaculture is organized in a structure that identifies the normative category, its numbering, denomination, the text of the articles divided into 13 titles and a large part developed in 32 chapters, adding up to a total of 158 articles.

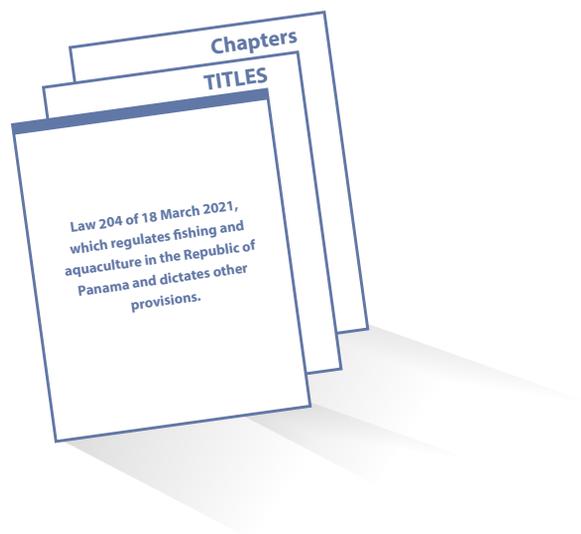


Table 1 shows the titles and chapters of the Law on Fisheries and Aquaculture.

Table 1. Denomination of Titles and Chapters in the Law on Fisheries and Aquaculture
(Source: own creation, based on information contained in Law 204, 2021).

Titles	Chapters
I. Guiding Principles	I. Scope of Application II. General Provisions III Principles, Aims and Objectives
II. Management and Sustainable Use of Aquatic Resources	I. Aquatic Resource Management II. National System of Information and Statistics on Fisheries and Aquaculture III. Special Regimes
III. Fishery Resources Management	I. Fisheries Management and Development II. Fishing Licenses III. Fishery Resources Management Plans IV. Aquatic Resources Research
IV. Access to Fishing Activity	I. Fishing for Domestic Consumption II. Small-Scale or Artisanal Fishing III. Medium Scale Fisheries IV. Large Scale Fishing V. International Service Fisheries VI. Activities Related to Fishing VII. Sport Fishing VIII. Extractors and Shore Fishers IX. Management and Use of Aquatic Invasive Species and Introduced Alien Species
V. Management of Aquaculture Resources	I. General Provisions II. Procurement, Importation, Exportation and Sanitary Control of Larvae, Seeds, Juveniles, Broodstock and Farms. III. National Aquaculture Commission IV. Limited Resource Aquaculture V. Micro and Small Enterprise Aquaculture and Large Enterprise Aquaculture VI. Ornamental Aquaculture VII. Concessions and Permits for Aquaculture Activities
VI. Promotion of Aquaculture	
VII. Investigations Conducted by the Authority	
VIII. Education, Fisheries and Aquaculture Training	
IX. Aquatic Resources Fund	I. Administration
X. Technology Transfer	
XI. Transport, Storage, Processing, Transformation and Commercialization	
XII. Infringements and Penalties	I. General Provisions II. Sanctioning Administrative Proceedings III. Infringements and Penalties
XIII. Additional Provisions	
XIV. Transitional and Final Provisions	I. Transitional Provision II. Final Provisions



Contributions and innovations

Why is the Law on Fisheries and Aquaculture considered innovative?

By incorporating a series of new guiding principles, arising from the experience gained over the last few years in fisheries and aquaculture management, this new law has become one of the most modern in the region. Among these principles, the ecosystems approach to fisheries will promote the planning, development and management of fisheries, addressing the multiple needs and aspirations of societies, taking into account the knowledge and uncertainties related to the biotic, abiotic and human components of ecosystems and their interactions, within relevant ecological limits.

This legislation recognizes the term co-management, which is a mode of governance with shared responsibility between ARAP and fishers for the management of fishery resources. It also recognizes the need to address the effects and impacts of climate change on fisheries and aquaculture.

In summary, the Law on Fisheries and Aquaculture considers the integrality and interdependence of the ecological, social and institutional dimensions, without jeopardizing the options of future generations to benefit from the

goods and services that can be obtained from marine ecosystems. In general terms, it is oriented towards the preservation of fishery and aquaculture resources, with the objective of guaranteeing their sustainability.

What developments will help improve fisheries and aquaculture management?

The creation of the National System for Fishing and Aquaculture Information and Statistics will allow ARAP to have a reliable database on everything related to fishing, aquaculture and related activities, in order to identify the behavior of these activities and establish measures and implement actions aimed at improving the management of exploitable aquatic resources.

Among other tools to be formulated by ARAP are:

- The National Fisheries and Aquaculture Conservation and Management Plan, to be developed on the basis of a situational diagnosis of aquatic resources, and in accordance with the National Fisheries and Aquaculture Policy.
- The National Strategic Plan for Science and Technology and the national research plans for fisheries and aquaculture.

What are the contributions in terms of public participation?

The Law on Fisheries and Aquaculture places citizen participation in a prominent role, expanding the subjects involved in fishing, aquaculture and related activities, as well as their families and communities, so that they can participate in the decision-making processes linked to the implementation of current policies and legislation. In addition, the Law emphasizes training, both for fishers and fish farmers, with the support of training centers, unions and non-governmental organizations, thus contributing to an informed, assertive and effective participation.

How is the issue of sustainability being addressed?

The sustainability of fisheries and aquaculture resources is a transversal axis inserted in the Law, which includes the creation of an Aquatic Resources Fund that will be used for programs and projects that support the increase of

competitiveness and sustainability of aquatic resources and related activities, connected to: fisheries and aquaculture research; development of infrastructure for fisheries and aquaculture production; training and technical assistance to fishers and fish farmers; restocking and/or cultivation of aquatic resources; inspection, monitoring and control of aquatic and fisheries resources; promotion of productivity and competitiveness; responsible and sustainable use of aquatic resources; or others that are considered a priority according to what is established in the National Fisheries and Aquaculture Policy.

It also recognizes the right of fishers' organizations to receive credits as a product of their activities, as long as they are carried out in a responsible and sustainable manner. In addition, it raises the need to address the resilience of aquatic species, based on studies or the best scientific evidence available, which supports the establishment of fishing refuge areas to ensure the reproduction, growth and recruitment of individuals of different species that live in aquatic ecosystems.

It should be noted that the new legislation establishes that for each fishery there will be a management and sustainable use of aquatic resources, so that the necessary measures can be taken to ensure the sustainability of the different fishery resources.

Likewise, the Law recognizes the importance of the traceability of the resources, parts and derivatives from fishing or an aquaculture origin, be they national or imported, from their origin to their destination, which contributes to improve their commercialization.

The Law also establishes the possibility of creating reserved and exclusive areas for artisanal fishing.

What is being considered in terms of risks from invasive and introduced aquatic species, as well as phytosanitary and phytozoosanitary issues?

ARAP must establish the necessary measures and controls in order to give timely and sustained attention to the issue of invasive aquatic species⁴ and introduced exotic species⁵, promoting a culture of management, capture, handling, consumption and exploitation of these species, where necessary, as well as research programs to support the actions taken.

⁴ They are those, exotic or autochthonous, whose population increase is an environmental problem, as it endangers the rest of the species present in a given area.

⁵ That which comes from a different geographical or ecological environment to the one in which they are found, having arrived there due to migration or through human beings.

On the other hand, the Law obliges ARAP, together with other competent entities, to elaborate Phytozoosanitary Protocols for the prevention and control of diseases in aquaculture crops.

And what is proposed to prevent and deter illegal, unreported and unregulated (IUU) fishing?

The Law defines illegal⁶, unreported⁷ and unregulated⁸ fishing and gives the ARAP the power to regulate the conservation, management and control measures it deems necessary, based on international agreements, conventions and treaties signed by Panama. It also includes concrete actions to prevent vessels with a history of involvement in IUU fishing activities, which appear on lists of regional fisheries management organizations (RFMOs), from being granted fishing licenses in Panama.

In addition, the Law reinforces the monitoring, control and surveillance measures for the national and foreign fishing fleet in the country, and for all vessels flying the Panamanian flag that engage in fishing and related or connected activities, with the measures detailed in Table 2.

⁶ Fishing activity conducted by national and foreign vessels in inland waters or maritime areas under the jurisdiction of a State, without the authorization of that State, or in contravention of its laws and regulations, as well as activity conducted by vessels flying the flag of States that are contracting parties to a competent regional fisheries management organization operating in contravention of conservation and management measures adopted by that organization and to which States are bound, or relevant provisions of applicable international law, or activity conducted in violation of national laws or international obligations, including those undertaken by cooperating States with respect to a competent regional fisheries management organization.

⁷ Fishing activity that has not been reported or is misreported to the competent national authority in contravention of national laws and regulations, as well as fishing activity conducted in an area under the competence of a competent regional fisheries management organization that has not been reported or was misreported in contravention of the reporting procedures of that organization.

⁸ Fishing activity conducted in the area of application of a competent regional fisheries management organization by fishing vessels without the nationality or flying the flag of a State not party to that organization, or by a fishing entity, in a manner which is not in accordance with the conservation and management measures of that organization, or in contravention thereof, or fishing activity conducted in areas or for fish stocks for which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner contrary to the responsibilities of States under international law for the conservation of living marine resources.

Table 2. Monitoring, control and surveillance measures (Source: own creation, based on information contained in Law 204, 2021).

Preventive	Operations
<p>The prior evaluation of the vessel's compliance record for the nationalization, registration, construction and modification of characteristics of a vessel to be engaged in fishing or related activities.</p>	<p>The use of satellite position locating devices installed on vessels flying the Panamanian flag and foreign flag that are in waters under Panamanian jurisdiction, which will send a signal to the ARAP's fisheries control and monitoring center.</p>
<p>The management and control of the manufacture of fishing gear and fish aggregating devices comply with the Law.</p>	<p>The inclusion within the elements that the management plans of each fishery should have of their monitoring, control and surveillance strategies.</p>
<p>The establishment of authorized ports and landing sites for fishing activities.</p>	<p>ARAP may establish conditions to ensure adequate monitoring, control and surveillance, as well as the timely receipt of data reports and relevant information requested from fishing related activities when they are carried out in port or at sea.</p>





Definitions, classification and requirements

FISHING

What is fishing?

It is defined in the Law as the search for, capture, collection or harvesting of fishery resources or any activity that may foreseeably and reasonably lead to the attraction, location, capture, extraction or harvesting of fishery resources.

How is fishing activity in Panama classified?

Currently, fishing and fishing-related activities for direct and indirect exploitation are classified into two main groups: commercial and non-commercial.

Commercial fishing activity is subdivided into:

a. Small-scale or artisanal:

It is carried out on board vessels whose means of propulsion is with oars or outboard motor, with or without navigation instruments and that do not use mechanized techniques of capture. This type of fishing can only be exercised by national natural persons, cooperatives or associations formed by national artisanal fishers duly constituted in Panama.

b. Medium scale:

It is executed on board vessels whose means of propulsion is with inboard or outboard engines, equipped with navigation instruments and mechanized fishing gear, being able to carry refrigeration systems.

c. Large-scale:

Carried out on board vessels whose means of propulsion is with inboard engine, equipped with navigational instruments, mechanized fishing gear, refrigeration systems, and have greater autonomy and hold capacity, compared to medium-scale vessels.

d. International Service:

It is the one carried out on board vessels that are registered under the national flag and that carry out their fishing activities in waters outside the jurisdiction of Panama.

On the other hand, non-commercial fishing activity is subdivided into:

a. Research:

It is carried out to generate knowledge, using the scientific method to obtain data, evidence, analysis, verification and application of the results and knowledge acquired about fisheries and aquaculture.

b. Sport:

It is carried out by natural persons, nationals or foreigners, with personal fishing gear, with or without a vessel, or through apnea immersion, as a physical, recreational, tourist activity or hobby.

c. Domestic consumption:

It is carried out in order to provide food for those who undertake the activity, their families and neighbors, being exercised exclusively by Panamanian individuals, with canoe-type boats and rudimentary fishing gear.

What requirements must be fulfilled to carry out fishing activity legally?

In order to carry out commercial and non-commercial fishing activities, all vessels, except those for domestic consumption, must have a license that authorizes fishing activities, related or otherwise connected to this, which must be managed before the ARAP, who must regulate this procedure.

These licenses must provide information that allows the identification of vessels, responsible persons and are non-transferable. In addition to the licenses, the current regulations issued by the AMP for the navigation of vessels must be complied with.

In the case of research fishing, a permit must be processed before MiAMBIENTE under a research plan, which will be adopted jointly with the ARAP.

As for sport fishing for billfish, it will be subject to the regulations issued by the ARAP.

When the fishing activity is conducted in the Panama Canal Watershed or in areas compatible with its operation, the respective permits must be obtained from the Panama Canal Authority.

In the indigenous comarcas and in lands of native peoples' collective property, the ARAP will coordinate with the traditional authorities the conditions for the use of fishery and aquaculture resources.

What is a fishing license and why is it necessary to have one?

A fishing license is the authorization granted by the ARAP to natural and legal persons, so that they can carry out fishing, as well as related or connected activities. It allows the identification of the vessel, the person responsible for it, the aquatic resources that can be extracted, the fishing gear to be used and even the area where the activity will be carried out, depending on each case.

The licences facilitate prior and subsequent controls, feed the country's registers and fishing statistics, and contribute to the work of supervision, monitoring and application of dissuasive measures to those who infringe the Law.

AQUACULTURE

What is aquaculture?

Aquaculture refers to the human-induced farming of aquatic organisms, such as fish, molluscs, crustaceans and plants, with the aim of increasing their production. Aquaculture varies greatly depending on where it is carried out, from freshwater fish farming in rice paddies to shrimp farming in saltwater ponds, and salmon production in cages in coastal areas.

How is the aquaculture activity in Panama classified?

The Law recognizes four (4) categories for aquaculture activity, which are detailed below:

Limited resources:

It is practiced on the basis of self-employment, as an exclusive or complementary livelihood, in conditions of lack of other resources that prevent its productive self-sustainability and the coverage of the basic family basket in the region where it is carried out.

Large-scale enterprise:

Involves the production of aquatic organisms on a large scale, with a high level of business and technological development, and has capital investment of public or private origin.

Micro and small enterprises:

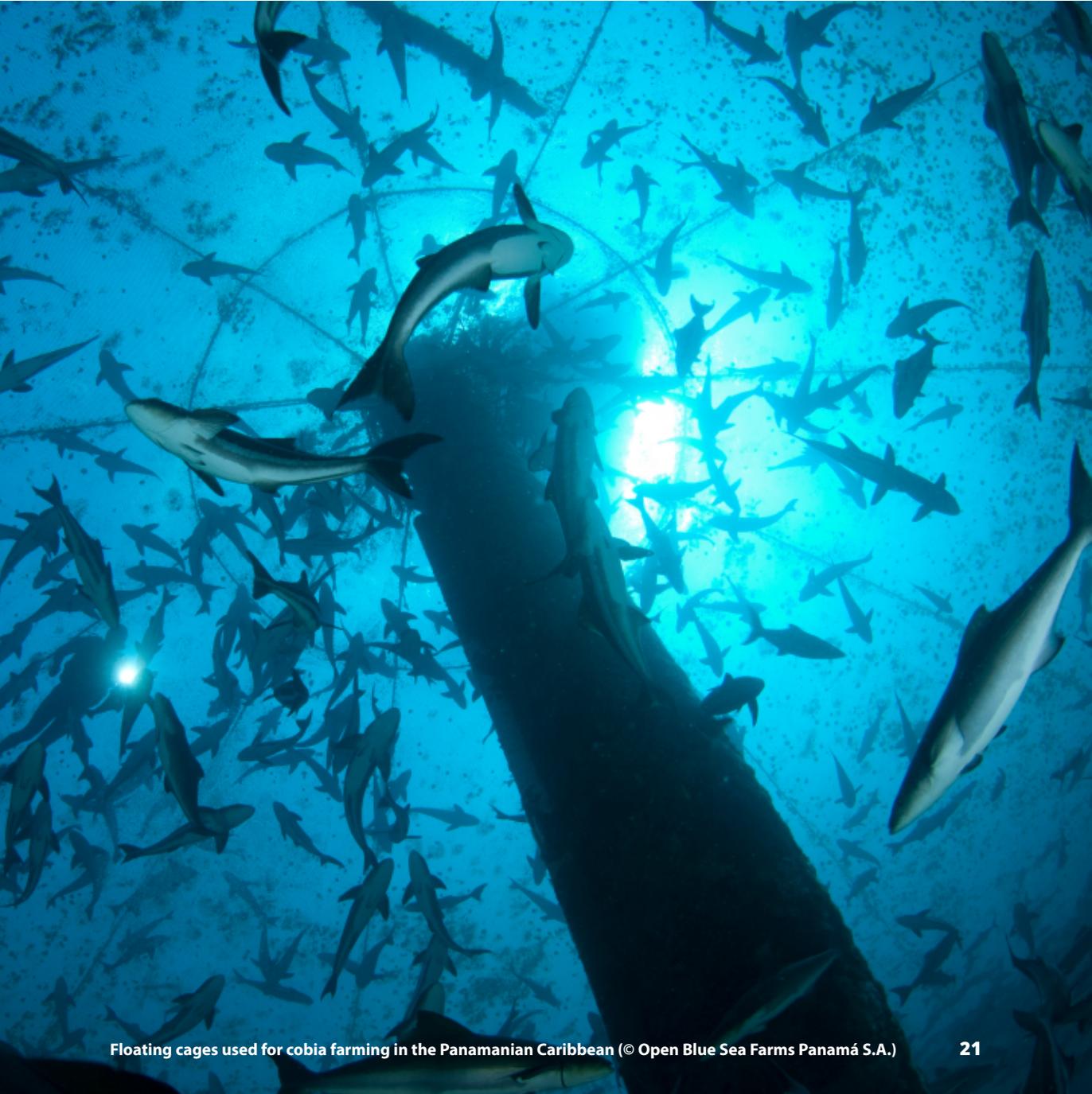
It has a commercial orientation, generates paid employment and has some level of technification, without exceeding the limits defined for micro and small enterprises by the competent authority.

Ornamental:

Oriented to the production of aquatic species for decorative use in aquariums, whether freshwater, brackish or marine.

In which locations can aquaculture be carried out?

Aquaculture may be carried out in state and private properties, in marine, brackish and fresh waters, in national albinas and in aquatic and terrestrial spaces under the jurisdiction of the Republic of Panama.



What requirements must I meet to carry out the aquaculture activity legally?

It is required to obtain an administrative concession, through which the State, through ARAP, grants the right to use the land for aquaculture for a period of time, without transferring ownership to the beneficiary of this concession. Prior to obtaining it, ANATI must approve the plans of the land where the aquaculture activity will be carried out, and the Directorate of Patrimonial Assets of the MEF must have granted a concept in favor of giving the land in concession.

If the aquaculture concession involves the use of beaches and coastal marine areas, the ARAP should coordinate with the AMP its granting, to avoid affecting areas in which this entity has influence.

In the case of protected areas that have their management plans and their creation objectives allow the development of aquaculture activities, it will be required that MiAMBIENTE issue a favorable concept.

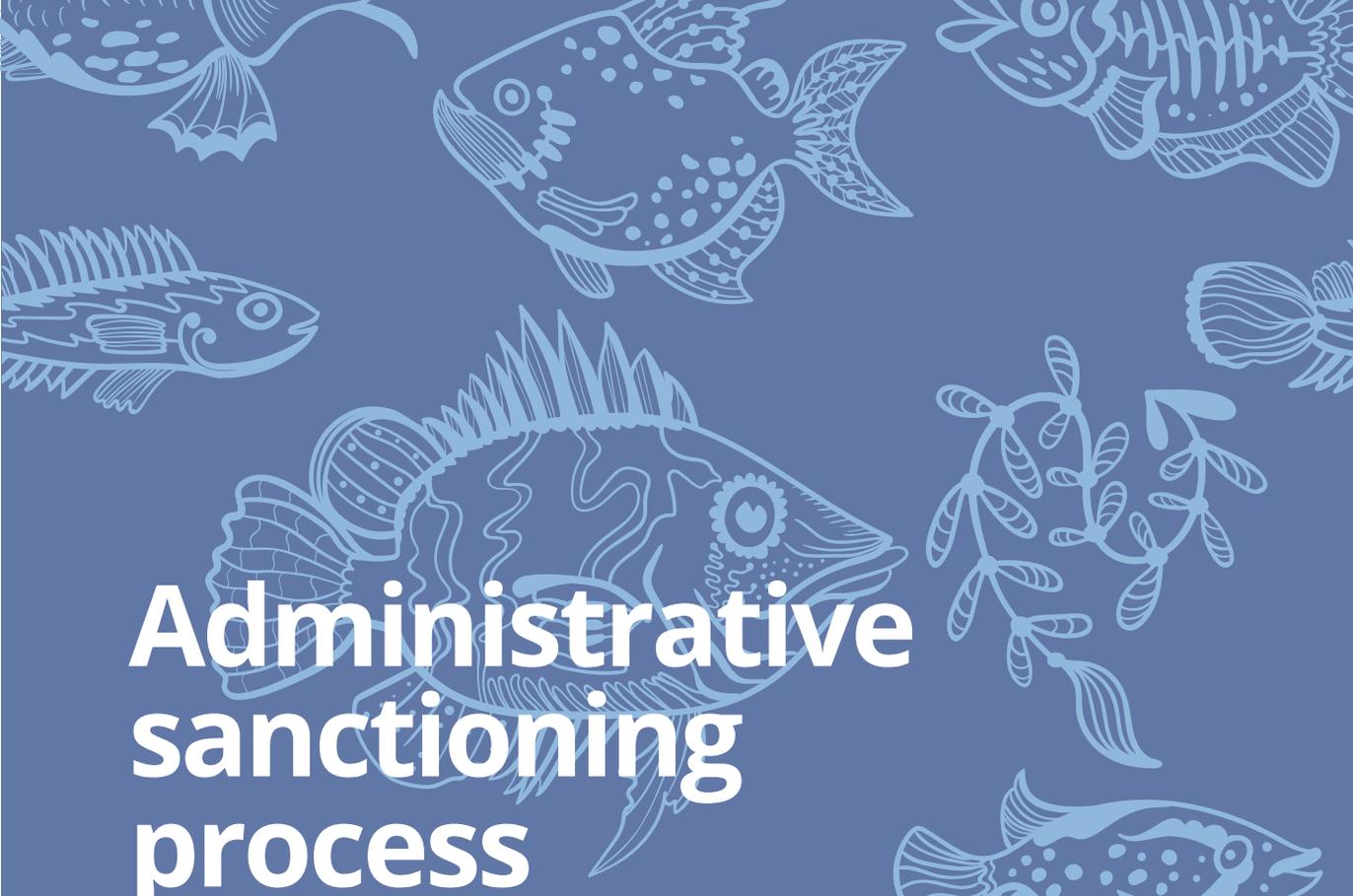
The Law establishes that the previous concepts to be issued by MiAMBIENTE, MEF, ANATI and AMP, must be granted in a term no longer than 30 days.

What incentives does the Law provide for aquaculture activities?

Among the incentives recognized by the Law for those who have an aquaculture concession, are in good standing with the payment of taxes, comply with their Development Plan and are registered in the National Aquaculture Registry, there are:

- Exemption from the rental fee for a period of five years, on investments made in the adaptation of existing infrastructure that meet the technical requirements demanded by the ARAP.
- Public and private financial entities may agree with acts of disposition and liens on the concessions granted, which shall oblige ARAP to execute and comply with them under the terms agreed upon by the lender and the borrower, provided that they are not contrary to law or to the aquatic concession that supports it.

ARAP may request the competent authorities to create other tax and other incentives for these activities.



Administrative sanctioning process

How is an administrative sanctioning procedure for violations of the Law initiated?

It can be initiated **ex officio** by the ARAP when it has acquired elements to detect potential non-compliance with the rule, or by **denunciation** made by individuals (natural or legal persons), by a State and/or by regional and sub-regional fisheries management organizations.

What principles govern the administrative penalty procedure?

They are principles that only seek to expedite the period of attention of the cases, guarantee the rights of the investigated, as well as to reinforce transparency and objectivity. Among them are: procedural economy, uniformity, speed, efficiency, simplification of procedures, publicity and impartiality, due legal process and the right of defense of the interested party.

Some provisions of the Law that reflect the application of these principles are:

- a. Coordination between the ARAP and the AMP to suspend all procedures related to change of ownership or cancellation of flag until the investigations are completed, as soon as a sanctioning process has been initiated.
- b. Notifications by edict, posted for a term of five working days in a public, visible and accessible board of ARAP's, as well as on its official website, and shall also be notified by digital communication to the email address provided by the investigated party. In these cases, if the interested party is notified personally, the term will begin to run from the date of such notification.

What are the stages of the administrative sanctioning procedure?

The administrative sanctioning procedure exercised by ARAP can be divided into the following stages:

1. Opening of the process:

It starts through an opening order (a necessary formality). The ARAP has 30 working days for the preliminary investigation.

Scenarios:

- a. There are insufficient elements to continue. In this case, the file will be closed and archived.
- b. If there is merit, a reasoned resolution of mere obedience is issued, which will be notified by edict to the alleged offender, detailing the facts and formally initiating the investigation.

2. Response and presentation of evidence:

Once notified of the resolution initiating the investigation, the alleged offender shall have 30 working days to file a written reply and propose its evidence.

- a. If you do not reply or submit evidence within the above time limit, the process will continue and ARAP will issue the sanction within 15 working days.

3. Application of precautionary measures:

After the 30 working days of the previous stage, if the ARAP finds merits to continue the investigation, the provisional suspension of the license of the vessel under investigation will be ordered until the case is completed with a decision absolving it of responsibility. The alleged violator may only appeal this measure on reconsideration. The provisional suspension of the vessel's license shall be communicated to the MPA and to the RFMOs.

4. Admission or rejection of evidence:

Once the term of 30 working days for the answer has expired, if the answer has been given and the evidence has been submitted, ARAP, within the following five working days, will decide whether or not to admit the evidence submitted, through a reasoned resolution, which may be appealed before the General Administration.

5. Gathering of evidence:

Once notified of the resolution that admitted the evidence submitted. There will be a period of 10 days for both parties, both ARAP and the alleged violator, to provide evidence to help determine whether or not an illegality was committed. If the alleged violator requests evidence at ARAP's expense, ARAP shall bear those costs.

6. Pleadings phase:

Once the evidence has been completed, a period of five working days begins for both parties to submit their written pleadings. At this stage, the file will be available to the parties involved in the case, who may review it and even obtain copies, if required.

7. Decision of the case:

Once the allegations have been concluded, ARAP will have 15 working days to issue the decision for the case, which will be set forth in a reasoned resolution that will be notified by edict.

What legal remedies can be exercised against the decisions of the administrative sanctioning processes?

The final decisions made by ARAP in administrative sanctioning processes may be challenged by two legal remedies:

- The right of reconsideration before the body that issued the sanction.
- The right of appeal to its General Administrator.

What behaviors, actions break or seriously transgress the Law?

The Law lists 31 serious fishing infractions, as well as related and connected activities (Table 3). In addition, the ARAP may establish new infractions, which it must regulate.

Table 3. Serious infractions in the Law on Fisheries and Aquaculture (Source: own creation, based on information contained in Law 204, 2021).

Serious infringements applicable to fisheries, aquaculture and related activities	Serious infringements applicable to fishing and related activities
<p>To carry out these aquaculture activities without having the corresponding and valid authorization issued by the Authority, or to carry out such activities under conditions contrary to the provisions of such authorization.</p>	<p>Engaging in fishing, fishing-related or fishing-connected activities with a vessel without a valid registration.</p>
<p>Carry out these activities in areas prohibited by the Authority, or that are not included in prohibitions or prohibited areas in applicable international agreements.</p>	<p>Falsifying or intentionally concealing the registration, identity or markings of a vessel.</p>
<p>Carrying out these activities in conditions contrary to the provisions of the applicable regulations.</p>	<p>Fishing in unauthorized areas, on unauthorized species or with unauthorized gear.</p>
<p>Falsifying or altering the authorization to carry out these activities.</p>	<p>Fishing in a prohibited area or under conditions other than those established in a special management zone.</p>
<p>Introduce and release aquatic invasive species.</p>	<p>Engaging in fishing, fishing-related or fishing-connected activities in a closed area or season, or beyond a closed depth.</p>
<p>Introducing exotic aquatic species without the corresponding authorization from the competent authority.</p>	<p>Fishing without having any quota or after having exhausted the allocated quota.</p>

Export live wild shrimp from the wild at any stage of development.	Not having satellite communication equipment (VMS) installed on board the vessel or not transmitting or providing the information from that signal to the ARAP's fisheries monitoring and control center, for a period of more than 24 consecutive hours.
Failure to allow the presence of a duly authorized ARAP inspector on a vessel, farm, larval production facility or processing plant.	Fishing or fishing-related activities in areas under the sovereignty or jurisdiction of another State without a valid authorization issued by the competent authority or in violation of the regulations of another State.
Marketing, transporting or using fish from IUU fishing activities on a vessel, production farm or processing plant.	Conduct, in the area of an RFMO, fishing and fishing-related activities contrary to the RFMO's conservation and management measures.
Intimidating, resisting, obstructing, delaying, sexually harassing, or unduly interfering with an authorized inspector or observer.	Intentionally take or retain species in contravention of any applicable conservation and/or management measures adopted by RFMOs, as well as those applicable under national regulations.
Concealing, tampering with or destroying evidence related to the investigation of an offense.	Violate catch limits or quotas in force, in accordance with the rules established by RFMOs.
Obstructing or hindering the execution of orders given or measures taken by authorized or accredited officials, in compliance with the provisions established in the regulations in force.	Participate in transshipments or joint fishing operations with vessels that are known to have been engaged in IUU fishing, in particular if they are on an RFMO's IUU vessel list, or have supported or resupplied such vessels.
Committing multiple offences that together constitute a serious infringement of the regulations in force.	To transship in unauthorized ports or landing sites or in waters under the sovereignty and jurisdiction of Panama or outside of them, contrary to the applicable regulations.
Other actions or omissions in matters that may subsequently be qualified and classified by the Authority as serious.	Failure to keep on board a fishing logbook duly completed and in accordance with the applicable regulations.
	Failure to submit catch or transshipment declarations in the format and period established by the competent authority.

What kind of administrative penalties can ARAP impose?

These include: fines, provisional suspension of the vessel's licenses and even of the captain, confiscation of the fishing gear and aquatic resources caught, up to the cancellation of the license, which will be communicated to the MPA and the RFMOs.

The penalties will be **aggravated** if there is recidivism in having committed them and will be **attenuated** considering factors such as the social and economic repercussions that they entail.

What is the destination of the amounts collected as fines?

The fines imposed and collected for infractions committed against this Law and its regulations will enter the Single Account of the National Treasury related to ARAP, to be used for technical purposes. If there was a person whose denouncement generates the investigation, he/she will receive 10% of the value of the sanction applied.





Key issues to be regulated

A crucial element for the effective implementation of the Law is the achievement of the regulation of its contents, which not only involves the authorities, but also implies the participation of the different actors directly and indirectly involved in fishing and aquaculture activities, as well as those related or connected to their development.

In principle, ARAP has planned to regulate the Law in two stages, which are detailed below.

1) The general regulation, focused on addressing the issues of:

- Registration procedure for fishers' organisations and groups of fish farmers.
- Classification of the fleet based on its fishing capacity, which allows differentiating the artisanal, medium-scale and large-scale fleets.
- Requirements for obtaining the license, including cases of total loss of the vessel, as well as the conditions for cancellation and/or suspension of the license.
- Control and surveillance systems for the fishing fleet.
- Establishment of a catch certification system.
- Traceability mechanisms to be implemented progressively.
- Guidelines for the establishment of closures, co-management measures and fishing refuge areas.
- Regulation of aquaculture activity.

2) Specific regulations, which should be dedicated to the following topics:

- Requirements, licenses and regulations that apply to shore extractors.
- Establishment of the program for the promotion and development of limited resource aquaculture.
- Development of the National Fisheries and Aquaculture Conservation and Management Plan.
- Regulation on the management plans of each fishery.
- Transfer of technology from the State to the fisheries and aquaculture sectors.
- Licenses for transport, storage, processing, transformation and commercialization of fishery products.
- Regulations applicable to control and compliance laboratories.
- Updating of the regulatory framework of the required closures, with scientific support.
- Requirements for the establishment of co-management measures, fishing refuge areas, whether or not they are required.
- Regulation of minor infractions and their penalties in fishing, aquaculture and related activities.

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MarViva Foundation is a regional, non-governmental, and non-profit organization whose action area is in selected Eastern Tropical Pacific zones. Its objective is to promote the sustainable use of the Eastern Tropical Pacific coastal marine resources, so that it is diverse, healthy, and generates well-being for present and future generations.

PANAMÁ: +507 317 - 4350 • COLOMBIA: +571 747 - 0460 • COSTA RICA: +506 4052 - 2500

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www.marviva.net

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