

JOINT DAR-DA-DENR-DILG

Administrative Order No. 01

February 02, 1996

SUBJECT : Rules and Regulations Governing the Conversion of Public Agricultural Lands to Fishponds and Prawn Farms Pursuant to Republic Act (R.A.) No. 6657, As Amended by R.A. No. 7881.

I. PREPARATORY STATEMENT

Section 5 of R.A. No. 7881 incorporates new sections into Section 65 of R.A. No. 6657. Section 65-A provides that no conversion of public lands into fishponds or prawn farms shall be allowed except under certain conditions to be provided by the concerned government instrumentalities, and that the conversion or change of land use shall not apply to environmentally critical projects and are areas pursuant to Title No. (a) sub-paragraph two, (B-5) and (C-1) and Title (B), No. 11 of Proclamation No. 2146. Section 65-B further provides that the Bureau of Fisheries and Aquatic Resources of the Department of Agriculture (BFAR-DA) shall undertake and finish the inventory of all public and private fishpond and prawn farms, and that no lease may be granted until after the inventory is completed. Section 65-C provides for the protection of mangrove areas.

To effectively operationalize the above provisions, these rules and regulations are hereby prescribed.

II. POLICY STATEMENT

A. No conversion of public agricultural lands into fishpond or prawn farms shall be allowed except when the concerned

agencies of the government declare a coastal zone as suitable for fishpond development.

- B. The Department of Environment and Natural Resources (DENR) shall allow the lease and development of coastal zones for fishpond development provided that the declaration shall not apply to environmentally critical projects and areas as contained in Title No. (A) sub-paragraph two, (B-5) and C-1) and Title (B), No. 11 of Proclamation No. 2146, entitled “Proclaiming Certain Areas and Types of Projects as Environmentally Critical and within the scope of the environmental impact statement system (EIS) established under Presidential Decree No. 1586”, to ensure the protection of river systems, aquifers, and mangrove vegetation from pollution and environmental degradation.
- C. Small-farmer cooperatives and organizations shall be given preference in the award of new Fishpond Lease Agreements (FLA) covering areas declared suitable for fishpond and prawn farm development by the provincial government with the concurrence of the BFAR and DENR.
- D. The Department of Agrarian Reform (DAR), through the Provincial Agrarian Reform Officer (PARO), shall screen small farmer/fisherfolk cooperatives or associations in coordination with the Cooperative Development Authority (CDA).
- E. The local government units (LGUs) shall recommend the conversion of public agricultural lands into fishpond and prawn farms in coordination and confirmation with the BFAR and DENR, respectively.

- F. A buffer zone as defined herein shall be established on a sufficient portion of the fishpond area fronting the sea to protect the environment and to be planted to specified mangrove species as determined in consultation with the Regional Office of the DENR, pursuant to DENR Department Administrative Order (DAO) No. 76, Series of 1987.

The Secretary of DENR shall provide the penalties for any violation of this undertaking as well as the rules for its implementation pursuant to Section 65-C of R.A. No. 6657, as amended by Section 5 of R.A. No. 7881.

- G. The proponent shall conduct an Environmental Impact Assessment (EIA) of the area subject of application to determine its suitability for fishpond and prawn farm development.

III. COVERAGE

These Rules and Regulations shall cover public agricultural lands , both alienable and disposable, and lands of the public domain found within the coastal zone which are declared suitable for conversion to fishpond or prawn farm development, by the provincial government, with the concurrence of the BFAR and the DENR.

IV. DEFINITIONS

For purposes of this order, the following terms are defined as follows:

- a. Fishpond means an artificially constructed pond for raising fish of any species from fry stage to marketable size, or a natural pond where fish is impounded.

- b. Coastal Zone Environment is an area where, at any given time, socio-economic interaction occurs between humans and land-based and sea-based natural resources.
- c. Buffer Zones are strips of 50 meters in mangrove or swampland areas throughout the country fronting seas, oceans and other bodies of water and 20 meters on both sides of river channels/banks maintained and developed to enhance the protective capability of the mangroves against strong currents, winds and high waves.
- d. Environmental Impact Statement (EIS) refers to the documentation of the Environmental Impact Assessment (EIA) study on the project including a discussion of the direct and indirect consequences upon human welfare and ecological and environmental integrity.
- e. fishpond Lease Agreement (FLA) is a privilege granted by the state to a person or entity to occupy and possess, in consideration of a specified rental, any public land for the raising of fish or other aquatic life with fishpond.
- f. Fishpond Development Projects are aquaculture activities within the mangrove ecosystem which include prawn and shrimp culture seaweed farming, oyster, mussel and clam culture, and other fishpond production activities.
- g. Public agricultural lands refer to all alienable and disposable lands not titled administratively or juridically and lands of the public domain whose actual use is agricultural in nature as defined under R.A. No. 7881 which includes the cultivation of the soil, planting of crops and growing of fruit trees and the harvesting of its produce.

- h. Conversion shall mean the change in the utilization of the land from agriculture to fishpond purposes as defined by R.A. No. 7881.
- I. Environmental Compliance Certificate refers to the permit issued by the President of the Philippines or his duly authorized representative certifying that the new fishpond development will not bring about unacceptable environmental impact and that the component has complied with the requirements of the EIA System.

V. APPLICANTS

Any person, natural, juridical, may apply for the conversion of public agricultural lands into fishpond or prawn farms; however, in the award of the FLAs, priority shall be given to small farmer/fisherfolk cooperatives and organizations.

VI. QUALIFICATIONS FOR MEMBERSHIP IN A COOPERATIVE AND/OR ASSOCIATION

- a. small marginal farmers and fisherfolk residing in the barangay or in the municipality where the area for fishpond development is located;
- b. must be a resident in the barangay or municipality for at least six (6) months from the date of filing of the application, to be certified by the Barangay Agrarian Reform Committee (BARC)/Sangguniang Barangay/Non-Government Organization (NGOs)/Peoples Organizations (POs) of the barangay;
- c. willingness of the majority to organize into a cooperative or association and abide by the rules and regulations as provided in the by-laws of the cooperative or association; and

- d. must be at least fifteen (15) years of age from the date of filling of the application.

VII. CRITERIA IN THE AWARD OF FISHPOND LEASE AGREEMENTS (FLAs) TO SMALL FARMERS/FISHERFOLK COOPERATIVES AND/OR ASSOCIATION

- a. must be a duly organized cooperative and/or association in the locality where the area for fishpond development is located;
- b. must be certified and recommended by the DAR through the PARO; and
- c. willing to put up the minimum financial requirement as provided by the BFAR (a certification from the Land Bank of the Philippines (LBP) guaranteeing the financial requirement may be accepted).

VIII. PROCEDURES

A. Provincial/City/Municipal Government, through the Sanggunian concerned shall:

- 1. identify coastal zones suitable for fishpond development in coordination with the BFAR, DAR and NGOs/POs in the area;
- 2. conduct public hearings with the small farmers, fishpond and fish workers, NGOs and POs on the conversion of coastal zones for fishpond development in the area, pursuant to Section 5 of R.A. No. 7881;

3. request the DENR, by way of resolution, to release the area for fishpond development pursuant to Section 9 of P.D. No. 705, as amended by P.D. NO. 1559 and as implemented by Ministry of Natural Resources (MNR) Administrative Order (A.O.) No. 3, Series of 1995;
4. issue or pass an ordinance declaring the portion of the subject public agricultural lands or coastal zones suitable for fishpond development upon receipt of a copy of the administrative order issued by the Secretary of DENR approving the release of the area subject of the resolution. The ordinance shall be published in a local newspaper and copies thereof shall be posted in a bulletin board at the entrance of the provincial capitol or city, municipal or barangay hall as the case may be, and in at least two (2) other conspicuous places in the concerned government instrumentalities for a period of fifteen days. The same shall take effect ten (10) days from the date of publication and posting; and
5. transmit the same to the DENR for proper disposition.

B. The DENR, shall:

1. evaluate the resolution and findings of the LGUs and the BFAR on the suitability of the coastal area for fishpond development;

2. determine whether the area subject of the LGU resolution has been zonified, certified and declared suitable for fishpond development pursuant to Section 13 of P.D. No. 705, as amended, and as implemented by MNR A.O. No. 3, Series of 1975 and if so, issue an administrative order declaring the said area as available and suitable for fishpond development and transfer its jurisdiction to the BFAR, copy furnished the concerned LGUs, for proper disposition;
3. on areas not yet zonified and certified as available for fishpond development but recommended by the LGUs with the concurrence of the BFAR, conduct an inspection/investigation on whether the area is suitable and available for fishpond development based on the criteria provided under MNR A.O. No. 3, Series of 1982 subject to the provisions of DENR DAO Nos. 34 and 19, Series of 1991 and 1993, respectively. If the findings indicate that the area is suitable and available for fishpond development, issue an administrative order declaring the area as suitable and available for fishpond development pursuant to R.A. No. 7881; and
4. issue an environmental Compliance Certificate (ECC) based on the favorable results of the EIA conducted by the proponent.

C. The DA, through the BFAR, shall:

1. provide the PARO with a list of areas zonified and approved by the DENR that are suitable and available for fishpond and prawn farm development,

2. conduct investigation and ocular inspection of the fishpond area;
3. provide application forms and other required documents, accept and process applications for FLAs and collect application fees and other dues thereon, giving preference to small farmer/fisherfolk cooperatives and associations as recommended by the PARO; and
4. prepare and issue FLAs.

D. The DAR, through the PARO, shall:

1. screen prospective beneficiaries such as small farmer/fisherfolk cooperatives or associations in coordination with the CDA upon receipt of a list of areas suitable and available for fishpond development from the BFAR;
2. assist the small farmers/fisherfolk association/cooperative in filing their application for FLAs;
3. extend technical assistance to small farmer/fisherfolk cooperatives/associations in the preparation and documentation of feasibility studies for the development and operation of fishpond and by availing of loan assistance from the LBP; and
4. forward and recommend the application to BFAR together with the certification that the members of the association are coastal fishpond or fish workers in the area..

IX. REPEALING CLAUSE

All other Orders, Circulars, Memoranda and Rules and Regulations or portions thereof inconsistent herewith are hereby revoked, canceled or modified accordingly, otherwise, they have suppletory effect.

X. EFFECTIVITY CLAUSE

This Administrative Order shall take effect ten (10) days after its publication in two (2) national newspapers of general circulation.

Diliman, Quezon City, 02 February 1996.

ERNESTO D. GARILAO

DAR Secretary

Signed on 20 Sept. 1995

ROBERTO S. SEBASTIAN

DA Secretary

Signed on 29 Sept. 1995

VICTOR O. RAMOS

DENR Secretary

Signed on 02 Feb. 1996

RAFAEL M. ALUNAN III

DILG Secretary

Signed on 14 Nov. 1995