

NEW GUIDELINES FOR THE GUIDED DEREGULATION OF THE DESICCATED COCONUT INDUSTRY

PCA ADMINISTRATIVE ORDER NO. 02, September 03, 1991

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Responding to the government's policy of a balanced approach towards free enterprise and responsible regulation, and pursuant to the Memorandum of the President dated February 11, 1988 approving the deregulation of the desiccated coconut (DCN) industry as recommended under PCA Board Resolution No. 058-87 dated October 28, 1987, the Governing Board hereby adopts the following guidelines for the application and operation of DCN processing plants which shall include existing plants and new applicants.

A

Definition of Terms

1. Dessicated Coconut (DCN) is pure white, pared, dehydrated and shredded coconut meat prepared from the fresh kernel of the coconut, which is considered as an excellent food product because of its superior quality.
2. Rated Capacity — the optimum level of production/operation the plant is designed to perform in a given period of time.
3. Utilization Rate — the rate obtained by dividing the actual production of the processing plant over its rated capacity.
4. Efficiency Rate — actual capacity rated independently of nut supply.
5. Congested Area — a condition in a particular locality where the ratio of total rated capacity over the total of the nut production capacity in the area is greater than or equal to 1.
6. Ruinous Cutthroat Competition/Unfair Trade Practice — is any false, disparaging or misleading oral or written statement, visual description or other representation of any kind in connection with sale, or offering for sale, which has the capacity, tendency or effect of deceiving or misleading buyers.
7. Locality — refers to any place (in any province, district or municipality) where concentration of production capacity is apparent by the existence of any number of operating plants whose total capacity is measured against the nut production or harvest in the said place.

B

Registration of DCN Firms

1. All existing and duly registered DCN plants shall renew their registration by filing their application with the PCA under the following guidelines:

1.1

In addition to the basic registration requirements under Administrative Order No. 003, Series of 1981, all applications shall contain the exact rated capacity applied for and the actual production capacity and utilization of

the plant for the year immediately following the date and year of the application;

1.2

The rated capacity applied for and approved by PCA shall not be changed nor shall any improvement, upgrading of or addition of equipment be made by the plant except upon prior application with PCA. Aforesaid application shall be made at least three (3) months before the expiration of the current registration for purposes of evaluation and approval by PCA;

1.3

Firms found to be operating below sixty percent (60%)[1] of rated capacity for the past five years[2] shall be reduced to its utilization capacity accordingly by PCA motu proprio except upon declaration by the Authority of the presence of extraordinary disadvantageous climate in the industry as defined in item C causing such drop in utilization capacity;

1.4

Firms which are operating only within 50% utilization capacity for the past five years due to raw material inadequacy shall be advised by PCA to relocate to any non-congested area as determined in these guidelines;

1.5

Firms falling below the 50% utilization for the past five years without the PCA declaration of extraordinary disadvantageous climate for DCN industry set forth in item C hereof shall be required to reduce the rated capacity to raise the capacity utilization to such level above 50%. Should this option fail to raise utilization levels within a period of one (1) year, the firm shall be given the option to relocate to any non-congested area, otherwise, PCA shall shorten its permit to operate to a period not more than one (1) year from the date of advice;

1.6

Firms which have stopped operating for 2-3 years and which would wish to resume operation must reapply for a new license and new rated capacity; they should be treated as new entrants;

1.7

Any cessation of production covering a period of one month or more should be reported to the PCA stating the reasons therein. Failure to report such cessation of production shall be considered a violation of these guidelines.

2. New DCN firms applying for registration shall comply with the following conditions:

2.1

New DCN firms upon the effectivity of these guidelines, shall be issued permits to operate in non-congested areas

only as declared by PCA, in consultation with the private sector, provided that new applicants shall comply with all procedures and requirements for registration under Administrative Order No. 003, Series of 1981 and this Order except the provisions in item 1.5 hereof;

2.2

Target Market — In addition to the regular documentary requirements for registration, new entrants to the DCN industry shall submit a sworn statement stating the names and addresses of all new tentative foreign buyers with their respective volume of DCN products as evidenced by the purchase orders or instruments evidencing the same. The PCA should require and ensure new entrants to the industry to target new markets and buyers. All documents and data to be submitted to PCA in accordance hereof shall be treated with utmost confidentiality.

3. Unless otherwise declared by the PCA, the rated capacities and supply production in the regions, for purposes of determining a congested and non-congested area shall be guided by the schedule of estimated nut production, crushing capacities and utilization rates as stated in ANNEX "A"[1] which forms part of these guidelines.

C

Declaration of Extraordinary

Disadvantageous Climate Prevailing in the Market

When PCA, upon proper petition by and consultation with the private sector finds that there exists an unforeseen and negative situation in the world market through no fault of our local DCN industry which caused domestic utilization capacities to drop, such adverse change shall not be attributed to the individual firm and shall be deemed as extraordinary disadvantageous climate in the industry. Such circumstance shall include but shall not be limited to gluts, proven existence of foreign cartels which create unfavorable market conditions, pricing or consumption pattern, calamities and other similar developments creating market conditions unfavorable to Philippine DCN.

D

Submission of Documents

For purposes of monitoring and evaluation, all firms shall be required to submit to PCA on a quarterly basis the following documents which shall be treated with utmost confidentiality;

1. Quarterly report of sales — volume and price both for the domestic and export markets;
2. Quarterly production report duly certified by the company's external auditor;
3. Requirements for export documentation
 - a. Report of Foreign Sales duly approved by Central Bank;
 - b. Export Declaration approved by the authorized agent bank.

E

Monitoring, Inspection and Investigation Functions

The functions of registration, monitoring, inspection and investigation shall be handled by the appropriate PCA structural organ. With due notice and as may be requested by PCA, DCN processing plants shall voluntarily submit and allow the PCA, to conduct product test/analysis and inspection of its plant facilities and premises in order to determine if they are in conformity with established and/or applicable standards.

F

Functions

1. Registration or Permit(s) to operate of firms that are found after due deliberation and consultation with the private sector to be engaged in ruinous cutthroat competition and unfair trade practices shall be cancelled. All cancellation orders shall take effect four (4) months following the date of issuance of the Order or as may be determined by the Governing Board in order to allow the firm to comply with and/or to settle its commitments;
2. Registration shall likewise be suspended or revoked by the PCA under the grounds or causes enumerated in Section 3.1 of Administrative Order No. 003, Series of 1981.
3. Failure of any firm to submit the reportorial requirements of PCA after three written requests shall be deemed as willful violation of these guidelines for purposes of applying the penal sanctions provided in Article IV, Section 1 of P.D. 1468.

G

Validity of Permits

1. Upon the resolution of the PCA Governing Board, the PCA Chairman and the Chief Executive Officer shall, pursuant to E.O. 826 recommend to the President of the Philippines the final approval of registration of each new DCN plant. All permits issued shall be valid for one (1) year and renewable yearly thereafter.
2. All permits issued shall be valid for one (1) year and renewable yearly thereafter upon compliance of all requirements.

H

Effectivity

These implementing guidelines shall take effect after fifteen (15) days from publication in a newspaper of general circulation.

Adopted: 3 Sept. 1991

(Sgd.) WENCELITO T. ANDANAR
Chairman

[1] Arbitrary, to be determined by PCA as to its efficient Utilization Rate, or otherwise, negative or inefficient U.R.

[2] Arbitrary, subject to PCA Governing Board determination.

[1] To be determined regularly by the PCA.

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