NATIONAL ADMINISTRATIVE REGISTER · [DA JOINT DA-DENR GENERAL MEMORANDUM ORDER NO. 3, OCTOBER 31, 1991] · JUNE 14, 1990

GUIDELINES ON THE IMPLEMENTATION OF SECTION 24, PARAGRAPHS 2 AND 3, OF PD 704 AS AMENDED, AND SECTION 43, PARAGRAPH 3, OF PD 705 AS AMENDED

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In order to promote the rational utilization of mangrove forest lands which have been released for fishpond development, as well as to reconcile the provisions of Section 24, paragraphs 2 and 3, of PD 704 as amended, with Section 43, paragraph 3 of PD 705 as amended, the following guidelines are jointly issued by DA and DENR for the information and guidance of all concerned.

I

Definition of Terms and Phrases

For purposes of this Order, the following terms and phrases shall mean:

1. Person — refers to natural or juridical.

2. Occupied — actual or constructive possession over the fishpond area.

3. Unoccupied — not occupied by any person, or is occupied by a person disqualified to acquire or enter upon it, or by a person who, being disqualified to occupy or use it, refuses or fails to exercise his preferential right thereto.

4. Vegetated with mangrove species — an intertidal area of one (1) hectare or more with at least ten (10) percent mangrove crown cover in each hectare (i.e. when the sun is directly overhead at high noon, shadows cast by mangrove species cover at least ten (10) percent of the area).

5. Suitable for fishpond purposes — meeting all accepted criteria on elevation, soil type, soil depth, topography and water supply required for successful fishpond development.

6. Undeveloped fishpond area — not enclosed by dikes without functional water control structures; or enclosed by dikes with functional water control structures but the water level required for production on a commercial scale cannot be maintained either by high tides or by pumping; or a larger area enclosed with a simple perimeter dike which has not been subdivided, which may or may not be vegetated with mangrove species and is not producing on a commercial scale.

7. Developed Fishpond — enclosed by dikes with functional water control structures, not vegetated with mangrove species and producing on a commercial scale; but not a fully developed fishpond.

8. Fully Developed Fishpond — a clean levelled area enclosed with dikes at least one foot higher than the highest flood water level in the locality and strong enough to resist water pressure at the highest flood tide, and consisting at least of a nursery pond, a transition pond, a rearing pond or combination of any or all said classes of ponds, and a water control system.

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II

Guidelines

1. Fishpond areas which are not covered by fishpond lease applications within five (5) years from the release thereof to DA-BFAR shall revert automatically to the administration of DENR; Provided, that if the area or any part thereof is actually occupied and developed prior to effectivity of this Order, the occupant shall, within one-hundred-eighty (180) days from effectivity, file a fishpond lease application thereon, comply with and submit to DA-BFAR all requirements for the issuance of a Fishpond Lease Agreement (FLA) and pay the penalties due pursuant to FAO No. 60 for each year since development began; Provided, also, that the DENR shall facilitate the timely approval of required surveys so that the applicants can meet the deadline for the submission of all requirements for the issuance of the FLA; Provided, further, that the DA shall issue the FLA within ninety (90) days from the submission of all requirements by the applicant or receipt of the inspection report which verifies the developed status of the area, whichever is later; and, Provided, finally that failure of the occupant to comply with these requirements shall cause the DA-BFAR to dispose of the developed area to qualified Agrarian Reform Beneficiaries pursuant to Section 3 of Executive Order No. 407 dated 14 June 1990 and all other portions shall revert automatically to the administration of the DENR.

2. For areas which were released and which are covered by fishpond lease applications filed within five years from release thereof, the DA-BFAR shall continue to process the same; Provided, however, that if upon inspection the area applied for or any part thereof is found to be vegetated with mangrove species or to have been so vegetated on the date of effectivity, is undeveloped or is not suitable for fishpond purposes, the same shall be excluded from the application and automatically reverted to the administration of the DENR; Provided, that within one-hundred-eighty (180) days from effectivity of this Order, all requirements for issuance of the FLA have been complied with and submitted to DA-BFAR by the applicant and, where development has occurred, the penalties due pursuant to FAO No. 60 have been paid for each year since development began; Provided, also, that the DENR shall facilitate the timely approval of required surveys so that the applicants can meet the deadline for the submission of all requirements for the issuance of the FLA; Provided, further, that the DA shall issue the FLA within ninety (90) days from the submission of all requirements by the applicant or receipt of the inspection report, whichever is later; Provided, finally that the failure of the applicant to comply with these requirements shall cause the DA-BFAR to dispose of the developed area to qualified Agrarian Reform Beneficiaries pursuant to Section 3 of Executive Order No. 407 dated 14 June 1990 and all other portions shall revert automatically to the administration of the DENR.

3. For fishpond areas covered by an existing FLA where the lessee has abandoned or failed to develop the same or has violated any of the terms and conditions of the FLA within three (3) years from such issuance, the DA-BFAR shall cancel the FLA and the area shall be disposed of to qualified agrarian reform beneficiaries pursuant to Section 3 of Executive Order No. 407 dated 14 June 1990; Provided, however, that if the area or any part thereof is vegetated with mangrove species and/or is not suitable for fishpond purposes, the same shall revert automatically to the administration of the DENR.

4. For fishpond areas covered by an existing FLA which have undeveloped portions five (5) years after issuance of the FLA, the DA-BFAR shall make the necessary amendments by segregating the undeveloped portion from the FLA and the same shall revert automatically to the administration of the DENR.

5. Parts of the area covered by an existing FLA which upon inspection is found vegetated with mangrove species and/or is not suitable for fishpond purposes, the same shall revert automatically to the administration of the DENR.

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6. All applications for fishpond lease over forest lands which have not been released for fishpond development by the DENR shall automatically be returned unacted.

7. The clearing of any vegetated mangrove area after the effectivity of this Order by any person to make that area eligible for application or retention under this Order shall disqualify him from filing an application thereon or from retaining the same and the area shall revert automatically to the administration of the DENR.

8. The provisions of PD 1586 and DENR DAO-34, S-91 shall be observed in the implementation of this Order.

9. The DA and the DENR shall, within sixty (60) days from effectivity, create joint teams to implement this Order and to establish a joint database and monitoring system. Verification of the utilization of mangrove areas released by the DENR for fishpond purposes and the evaluation of their suitability for fishpond purposes as required by this Order shall be completed by the joint teams within three-hundred-sixty (360) days from the date of this Order. Revised control maps showing all fishponds and forest lands shall be prepared jointly by the DA and the DENR.

All memoranda, orders and other directives inconsistent with this Order are hereby revoked or amended accordingly.

This Order shall take effect immediately and shall remain in force and effect unless otherwise revoked or amended in writing by both the Secretary of Agriculture and the Secretary of Environment and Natural Resources.

Adopted: 31 Oct. 1991

(SGD.) SENEN C. BACANI

(SGD.) FULGENCIO S. FACTORAN

Secretary
Department of Agriculture

Secretary Department of Environment
and Natural Resources

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