

PROVIDING FOR THE DISPOSITION, DEVELOPMENT AND UTILIZATION OF GUANO DEPOSITS FOR FERTILIZER PURPOSES

PRESIDENTIAL DECREE NO. 412, March 15, 1974

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WHEREAS, the present oil crisis has brought about shortage and prohibitive prices of fertilizer to the detriment of agricultural production;

WHEREAS, there have been found throughout the country several caves and other areas containing guano deposits which may be utilized even in raw form as fertilizer materials;

WHEREAS, to help alleviate fertilizer shortage and boost agricultural production, the speedy development and utilization of the guano resources is now imperative and necessary; and

WHEREAS, in order to encourage the development of these guano resources, the laws and rules governing applications for permits to develop them must be simplified and made inexpensive;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, do hereby exclude guano resources from the provisions of the Mining Act (Commonwealth Act No. 137, as amended), and provide hereunder the manner of disposition thereof, as follows:

SECTION. 1. Permit to Remove Guano. — No person, corporation, partnership or association shall be allowed to remove, take or collect guano deposits for fertilizer purposes within public or private lands, whether in caves or other areas, except under a permit duly issued in accordance with the provisions of this Decree.

SEC. 2. Kinds of Permit. — There shall be two kinds of permit that may be issued under this Decree, namely:

- Gratuitous permit to be issued to individuals for their personal use and to government agencies for official use; and
- Commercial permit to be issued to persons or corporations or partnerships for sale of guano with or without processing.

SEC. 3. Who May be Granted Permit. — Permits under this Decree may be issued or granted to applicants who have complied with the requirements provided herein and who possess the following qualifications:

- In case of a gratuitous permit, the applicant shall be of legal age and a citizen of the Philippines. A government agency may also be granted this permit.
- In case of a commercial permit, the applicant, if an individual, shall possess the qualifications prescribed in the preceding paragraph and if a partnership or corporation, it should be organized under the laws of the Philippines and duly registered with the Securities and Exchange Commission, at least sixty per centum (60%) of the capital of which is owned and held by citizens of the Philippines. A certified copy of its duly registered articles of incorporation or partnership should be submitted in support of the application.

SEC. 4. Who May Issue the Permit. — Upon application filed in the prescribed form, the permit shall be issued by the Director of Mines or by the Mines Regional Officers. As deputies of the Director of Mines, the Mines Regional Officers shall issue permits covering areas within their respective jurisdictions.

SEC. 5. Permit Revocable in Nature. — Permits issued under this Decree may be revoked at any time by the Director of Mines where in his opinion public interest so requires or for causes provided hereunder. His decision, however, may be appealed to the Secretary of Agriculture and Natural Resources within five (5) days from receipt thereof by the party adversely affected. In either case, the decision shall be immediately executory. When a permit, however, is revoked through no fault of the permittee, he shall be entitled to a refund of the fees paid by him in advance, if any, for the quantity of guano not yet removed at the time he is duly advised of the revocation.

SEC. 6. Special Deputies. — In addition to the Mines Regional Officers who are designated as deputies of the Director of Mines in accordance with Section 4 hereof, the Secretary of Agriculture and Natural Resources may designate any official of an appropriate agency under his Department to act as deputy of the Director of Mines in each province or city, as the case may be. The deputies of the Director of Mines shall see to it that the areas within their jurisdiction having potentials for guano shall not be encroached upon by any unauthorized person, execute the decisions and orders of the Director of Mines and/or the Secretary of Agriculture and Natural Resources, and have authority to call for the assistance of any peace officer within their jurisdiction for the enforcement of such duties as may be assigned to them.

SEC. 7. Specific Conditions Under Which Permit is Issued. Permits granted under this Decree shall be subject to the following terms and conditions:

- Gratuitous permits shall be for the exclusive personal or official use and benefit of the permittee; commercial permits shall be for the extraction and sale of guano whether in its natural or processed form;
- Removal or taking of guano shall be confined within the cave or area specified in the permit, the location of which shall be indicated in a sketch map and properly identified;
- Under justifiable circumstances, commercial permittees shall allow gratuitous permittees to remove or take from the cave or area of their permit the quantity of guano specified in their permit for personal or government use. In the same manner, gratuitous permittees shall allow other permittees to remove or take guano from their cave or area;
- Permittees shall file quarterly with the Director of Mines or Mines Regional Officer a sworn statement of the quantity of guano removed and the amount of fees paid therefor;
- The permit or a copy thereof shall be kept at the site of operation and shall be made available at all times for inspection by the representatives of the Secretary of Agriculture and Natural Resources, the Director of Mines, the Mines Regional Officer, or the local authorities;
- The removal or taking of guano for commercial purposes shall be made only after proper notice to the Bureau of Internal Revenue or its regional office or the municipal treasurer, and the corresponding ad valorem tax under the Internal Revenue Code is paid based on the gross value of the guano extracted or removed;
- The permittee shall immediately stop digging and extracting guano the moment man-made articles or artifacts are found. He shall notify the Director of National Museum of such findings, in which case, the digging shall be under the supervision of the National Museum until said artifacts are recovered;
- The permit shall be subject to existing rights, the provisions of existing laws, the provisions of this Decree, and the rules and regulations on the matter;

- More than one permit may be issued to remove guano from the same cave or area: Provided, That only one commercial permit shall be issued for the same cave or area;
- The permit shall be surrendered to the Director of Mines immediately on the day following its expiration or cancellation;
- No explosives shall be used in extracting guano; and
- Such other conditions that the Director of Mines may specify in the permit.

SEC. 8. Contents of the Permit. — Permits shall contain specific instructions and conditions to be complied with by the permittee as regards its duration, cave or area covered, quantity of guano to be removed or extracted, reports to be submitted and fees to be paid in advance.

SEC. 9. Record of Guano Removed or Disposed of. — Gratuitous permittees shall keep a book or books of accounts wherein there shall be entered daily the quantity of guano removed and the fees paid therefor. In the case of commercial permittees, daily entry shall be made on the quantity of guano extracted and sold, selling prices thereof, identity and address of buyers and the fees and internal revenue taxes paid.

SEC. 10. Quantity of Guano Allowed a Permittee. — A gratuitous permittee shall be allowed to remove or extract not more than two thousand kilos (2,000 kg.) of guano and a commercial permittee shall be allowed such quantity as may be specified in the permit.

SEC. 11. Fees. — The permit fee for gratuitous and commercial permits shall be determined and fixed by the Director of Mines but the same shall not be less than ten centavos (P0.10) per kilo of guano removed. Fifty per centum (50%) of such fee shall accrue to the province and fifty per centum (50%) to the municipality from where the guano is extracted: Provided, That in case of cities the whole amount shall accrue to the city concerned.

SEC. 12. Surcharges for Guano Removed in Excess of the Quantity Authorized in the Permit. — The permittee shall pay twice the fee due on guano removed or taken in excess of the quantity authorized in the permit within thirty (30) days after demand.

SEC. 13. Purchase or Sale of Guano Illegally Extracted. — Any purchase or sale of guano illegally extracted or removed is prohibited. Violation of this provision shall be punishable upon conviction by a fine of not less than one thousand pesos (P1,000) or imprisonment of not exceeding two (2) years or both at the discretion of the court.

SEC. 14. Inspection by the Director of Mines or Deputy Concerned. — The Director of Mines or his deputy concerned may inspect from time to time the operations of the permittee to find out if the latter has complied with the conditions of the permit, this Decree and such rules and regulations that may be promulgated from time to time by the Director of Mines. Noncompliance by the permittee or violation of any provision of the permit shall be a cause for the cancellation thereof and forfeiture of the fees paid in advance.

SEC. 15. Failure to Keep Book of Accounts and Submit Reports. — Failure of the permittee to keep book or books of accounts wherein to record all transactions relative to the guano removed or disposed, or failure to submit the required reports without justifiable reasons, shall be sufficient ground for cancellation of the permit and forfeiture of the fees: Provided, That all taxes due at the time of the cancellation of the permit shall be deemed due and payable.

SEC. 16. Repealing Clause. — All laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Decree are hereby repealed or modified accordingly.

SEC. 17. This Decree shall take effect immediately.

Done in the City of Manila, this 15th day of March, in the year of Our Lord, nineteen hundred and seventy-four.

(Sgd.) FERDINAND E. MARCOS

President

Republic of the Philippines

By the President:

(Sgd.) ALEJANDRO MELCHOR

Executive Secretary

In order to facilitate the implementation of Presidential Decree No. 412, the Bureau of Mines issued Mines Administrative Order No. V-54, dated April 16, 1974, on the development, disposition and utilization of guano deposits for fertilizer purposes.

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