

RULES AND REGULATIONS GOVERNING THE CONSERVATION AND PROTECTION OF MANGROVE AREAS

PCSD ADMINISTRATIVE ORDER NO. 11, S. OF 2006, December 15, 2006

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Pursuant to PCSD Resolution No. 06-316, this Rules and Regulations is hereby promulgated for the compliance and guidance of all concerned in the province of Palawan.

SECTION 1. Basic Policy

It is the policy of the State to conserve the country's biological diversity and endangered habitats for sustainable development. Towards this end, the State shall promulgate such rules that sustain the declaration of Palawan mangrove forests, including its flora, fauna and marine life, as national reserve because of their ecological, scientific, educational and recreational values

SECTION 2. Objective

In the pursuit of the above-mentioned policy, this Order is promulgated to achieve the following objectives.

- 2.1 to conserve and protect existing mangrove areas
- 2.2 to prevent illegal activities within mangrove areas
- 2.3 to provide for a mechanism by which existing illegal fishponds, including those declared as "for reversion" by proper authorities, may be reverted to their original mangrove state
- 2.4 to provide for a mechanism by which mangrove tanbarks may be disposed

SECTION 3. Scope

This Administrative Order shall apply to activities covered under Sections 5 to 12 as herein provided.

SECTION 4. Definition of Terms

- 4.1 Fishponds - an artificially constructed pond for raising fish from fry of any species and stage to marketable size, or a natural pond where fishes are impounded for similar purposes.
- 4.2 Debarking - the act of removing a bark of a mangrove tree
- 4.3 Tanbark-the bark which has been removed from the mangrove tree
- 4.4 Illegal structures - those which are constructed in mangrove areas aside from fishpond dikes

RULE II

GENERAL PROVISIONS

SECTION 5. Cancelled/Terminated Lease

All fishponds with lawfully issued Fishpond Lease Agreements but which are declared by the Bureau of Fisheries and Aquatic Resources as cancelled or terminated according to the grounds provided in its own guidelines before the effectivity of this Order, and those which shall be cancelled or terminated for violations of the terms and conditions of the FLA shall be reverted to the category of a forest land. Upon issuance by BFAR of a Certification to this effect, the PCSD shall take cognizance of these fishponds and shall take the necessary steps to restore them to their original mangrove state. PCSD may call on the DENR and other concerned agencies in carrying out the

reversion process.

SECTION 6. Abandoned, Undeveloped or Underutilized Fishponds

Fishpond areas covered by an existing FLA which have been determined as abandoned, undeveloped or underutilized after five (5) years from issuance of FLA shall be reverted to the category of a forest land. Upon issuance by BFAR of a Certification to this effect, the PCSD shall take the necessary steps to restore these areas to their original mangrove state. PCSD may call on the DENR and other concerned agencies in carrying out the restoration process.

SECTION 7. Absentee Fishpond Lease Agreement Holders

Fishpond areas of holders of fishpond lease agreements who have acquired citizen ship in another country during the existence of the FLA, whose leases have been automatically cancelled and their improvements forfeited in favor of the government, shall be reverted to the category of forest land. Upon issuance by BFAR of a Certification to this effect, the PCSD shall cause their restoration to their original mangrove state. The PCSD may call on the DENR and other concerned agencies in carrying out the restoration process.

RULE II

PROHIBITIONS

SECTION 8. Illegal girdling, burning or possession of any mangrove species or any part thereof in the Province of Palawan

No person, natural or juridical, shall girdle, burn or possess any mangrove species or any part thereof without permit from the concerned government agency and/Or SEP Clearance from the PCSD. .

SECTION 9. Illegal Conversion of Mangroves

No person, natural or juridical, shall be allowed to convert mangrove areas. Provided further, that the continuous existence of any structure constructed in violation of section 94 of RA 8550 prior to the effectivity of this Order shall also constitute a violation of this section and shall be subject to the penalties herein provided.

SECTION 10. Unlawful use of fishpond covered by a Lease granted to another

It shall be unlawful for any person who has not acquired any leasehold rights of an assignee/transferee under the rules provided for by BFAR to use or occupy any fishpond areas covered by FLA granted to another person.

SECTION 11. Obstruction to Navigation in any body of water within mangrove areas

It shall be unlawful for any person to construct any kind of structure which will obstruct the free navigation of rivers in mangrove areas or which will impede the flow of tide to and from mangrove areas.

SECTION 12. Mangrove Debarking and Possession of Tanbarks.

Pursuant to PCSD Resolution No. 00-166, the act of debarking is hereby declared as illegal and the mere possession of tanbark as illegal per se in the province of Palawan,

RULE III

PENAL PROVISIONS

SECTION 13. Fines

The following fines shall be imposed after due notice and hearing and in accordance with the proper determination of the PCSD Adjudication Board:

SECTION 13.1 Any person who girdles, burns or possess any mangrove species or any part thereof without permit from the concerned government agency and/or SEP Clearance from the PCSD pursuant to Section 8 of this Order shall be fined the amount of not less than P50,000.00 and not more than P250,000.00

SECTION 13.2 Any person who is found to have illegally converted mangrove areas pursuant to Section 9 of this Order shall be fined the amount of not less than P50,000.00 and not more than P250,000.00.

SECTION 13. 3 Any person who unlawfully uses or occupies any fishpond covered by FLA granted to another person (lessee) without any legal instrument pursuant to section 10 of this Order shall be fined the amount of not less than P50,000.00 and not more than P250,000.00.

SECTION 13.4 Any person who unlawfully constructs any kind of structure in mangrove areas which obstruct the free navigation or impede the flow of tide therein pursuant to Section 11 of this Order shall be fined the amount of not less than P50,000.00 and not more than P250,000.00.

SECTION 13. 5 Any person who is found to be in violation of Section 12 of this Order on Mangrove debarking and possession of tanbark shall be fined the amount of not less than P50,000.00 and not more than P250,000.00.

SECTION 14. Cancellation

The PCSD may call the attention of the Bureau of Fisheries and Aquatic Resources to cancel any Fishpond Lease Agreement previously issued in case holders of the same are found to be in violation of the terms and conditions thereof.

SECTION 15. Forfeiture

All improvements introduced and structures constructed, including cultured fishes in case of illegal fishponds, shall be forfeited in favor of the government. The disposition of these items shall be in accordance with the existing rules and regulations on forfeiture, except that, in case of tanbarks, the same shall be burned in accordance with Rule V of this Order.

SECTION 16. Dismantling/Removal of illegal Fishponds/Structures

All fishponds, structures and improvements that fall under Sections 4, 5 and 6, and those constructed in violation of Section 8, 9, 10 and 11 of this Order, after a proper determination of the PCSD Adjudication Board (PAB), shall be dismantled/removed in accordance with the procedures laid down in Rule IV of this Order. After which, necessary steps shall be taken by the PCSDS to revert the affected areas into their original mangrove state. This is without prejudice to the fine imposed pursuant to Section 13 of this Order.

SECTION 17. Disposition of Confiscated Tanbarks

All tanbarks confiscated and forfeited in favor of the government shall be disposed of through burning in accordance with the procedure laid down in Rule V of this Order.

SECTION 18. Restoration/Replanting

Any person who, after due notice and hearing, is found to have violated Sections 8,9, 10 and 11 of this Order, and after dismantling the illegal structures as ordered, shall be ordered to restore the subject area to its original mangrove state.

The imposition of the penalties herein provided shall be without prejudice to the filing of criminal or civil cases in court as the evidence may warrant.

RULE IV

DISMANTLING PROCEDURE

SECTION 19. Complaint

Any person, government or non-government organization, or any other entity who has personal knowledge of any illegal fishpond or structure within mangrove forests may bring their written or oral report or request for appropriate action to the PCSDS.

The PCSDS, on the basis of the written or oral report, shall, in turn, file the corresponding complaint to the PAB.

However, the filing of the complaint before the PAB shall not be limited to the PCSDS. Other interested and related agencies may also bring their formal complaint before the PAB.

SECTION 20. Resolution of the PCSD Adjudication Board

The PAB, after proceeding with the administrative complaint filed before it in accordance with the procedures laid down in PCSD Resolution No. 03-207 and in case it finds to be appropriate, shall issue the necessary dismantling order.

SECTION 21. Issuance of Dismantling Order

Upon receipt of the PAB decision, the Executive Director, shall ensure that the Order be implemented and shall submit a report to the PCSD, furnishing all concerned agencies with a copy thereof.

RULE V

PROCEDURE FOR BURNING OF TANBARKS

SECTION 22 Complaint

Any person, government or non-government organization, or any other entity who has personal knowledge of matters concerning mangrove debarking or that there are alleged persons who have, in their possession, mangrove tanbark may bring their written or oral report or request for appropriate action to the PCSDS. Those found to be abandoned may also be reported to the PCSDS.

The PCSDS, on the basis of the written or oral report, shall, in turn, file a corresponding complaint to the PAB if there are responsible persons identified. However, the filing of the complaint before the PAB shall not be limited to the PCSDS. Other interested and related agencies may also bring their formal complaint before the PAB.

SECTION 23. Manner of Disposition

Upon order of the PCSD Adjudication Board or of the PCSDS Legal Department as authorized by the former, confiscated tanbarks, except those reasonable volume that are to be used as real evidence, shall be immediately burned even before the filing of the formal complaint. The PCSDS shall lead the burning of such tanbarks which may be done in the area of apprehension or in any convenient place depending on the circumstances.

In case tanbarks are found to have no claimant, the apprehending team may immediately burn all of them in the area of apprehension. Provided, that a summary report shall be forwarded to the nearest PCSD District Management Office or to the PCSD main office in Puerto Princesa City.

SECTION 24. Report

The PCSDS shall produce its report about the disposition of the mangrove tanbarks, a copy of which shall be furnished to the PCSD and to all concerned agencies or entities. Proper documentation must always be considered in the submission of said reports.

RULE VI

FINAL PROVISION

SECTION 25. Separability Clause

If, for any reason, any part or provision of this Order is declared as unconstitutional, other parts or provisions thereof not affected thereby shall continue to be in full force and effect.

SECTION 26. Effectivity

This Order shall take effect fifteen (15) days after its complete publication in a local newspaper of general circulation in Palawan. Copies of the same shall likewise be deposited at the National Administrative Register at the U.P. Law Center, Diliman, Quezon City.

SO ORDERED

Adopted: 15 Dec. 2006

(SGD.) HON. ABRAHAM KAHLIL B. MITRA

Chairman, PCSD

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