

[DAR ADMINISTRATIVE ORDER NO. 9, September 30, 1988]

GUIDELINES AND PROCEDURES IMPLEMENTING PRODUCTION SHARING UNDER EXECUTIVE ORDER NO. 229

WHEREAS, Executive Order No. 229, Providing the Mechanism for the Implementation of the Comprehensive Agrarian Reform Program, which took effect on August 29, 1987, provides this section on Production Sharing:

"Section 16. PRODUCTION SHARING — Individuals or entities owning and/or operating under lease agricultural lands with gross sales in excess of Five Million Pesos (P5M) per annum are hereby mandated to execute a production sharing plan whereby at least two and one-half (2.5) percent of the gross sales from the production/cultivation of such lands are distributed as compensation to the farm-workers over and above the compensation they currently receive; provided, that such individuals or entities are not obligated to pay more than 100 percent of the regular annual compensation of the farmworkers."

NOW, THEREFORE, to ensure an orderly and effective implementation of the above provision, the following Guidelines and Procedures are hereby promulgated for the guidance of all concerned.

SECTION 1. Definition of Terms . — As used in these Guidelines and Procedures, the following terms shall have the following respective meanings:

A. Agricultural Land means land devoted to any growth, including but not limited to crop lands, saltbeds, fish ponds, idle land and abandoned land.

B. Farmworker includes any agricultural wage, salary or piece worker, but is not limited to a farm worker of a particular farm employer unless R.A. 3844 explicitly states otherwise, and any individual whose work has ceased as a consequence of, or in connection with, a current agrarian dispute or an unfair labor practice and who has not obtained a substantially equivalent and regular employment.

C. Gross Sales means the total annual revenue arising from the sale of all agricultural products, in their raw or original state, derived from the land or farm owned; operated under lease, management, production venture, grower or service contract; or other similar arrangement by an agricultural enterprise. Simple post-harvest operations ordinarily done within the farm to preserve or prepare agricultural products for the market, such as drying, salting, smoking or stripping, are considered agricultural activities. In cases where retention right is allowed, the amount of gross sales may be reduced by an amount equivalent to such proportion that the retained area bears in relation to total land area.

D. Regular Annual Compensation includes all cash remuneration or earnings regularly paid to an employee by an employer for services rendered within a year, such as salaries, wages, 13th month pay, bonus, allowances, commissions and paid leaves, and other income of similar nature, whether mandated by law or provided by collective bargaining agreement or established company practices, but excludes payment arising from the Production Sharing provided herein.

SECTION 2. Employers Covered. — Pending final land or corporate stock transfer, individuals or entities owning and/or operating agricultural lands under lease are covered by this Production Sharing.

Provided, that these individuals or entities realize gross sales in excess of FIVE MILLION PESOS (P5M) per annum.

In the case of individuals or entities with business operations other than agricultural, only the divisions groups or units involved in agricultural production are included in the mandated Production Sharing.

SECTION 3. Employees Covered — All farmworkers, as defined herein, of covered employers are included in the mandated Production Sharing. Provided, that any farmworker who renders service, regardless of duration within a covered period shall be entitled to this benefit.

SECTION 4. Main Features of the Mandated Production Sharing Plan . — Covered employers shall prepare and execute a Production Sharing Plan which shall conform to the following requirements:

A. The Plan shall apply only for the covered period stating August 29, 1987 up to June 14, 1988.

B. The implementation of the Plan shall start on the accounting year (i.e., fiscal crop or calendar year followed by a covered employer) ending after August 29, 1987. During the accounting period covered, the employer's gross sales for a full year period shall be considered to determine whether the employer has realized annual gross sales of over FIVE MILLION PESOS (P5M) for purposes of coverage under the Production Sharing Plan. However, the gross sales to be considered in computing covered workers' Production Shares shall be the amount equivalent to such proportion that the fraction of the accounting period falling within August 29, 1987, and June 14, 1988, bears in relation to the entire accounting period.

C. Covered employers are obligated to pay the following Production Shares to be given over and above the compensation their farmworkers currently receive and which shall be distributed based on:

Amount of production share: 2.5% of-Annual Gross Sales from August 29, 1987 to June 14, 1988, provided that the employer is not obligated to pay more than 100% of the regular annual compensation of the farmworker-beneficiaries.

Schedule of distribution: 50% of Production Share shall be paid not later than February 12, 1989, and the balance on or before April 2, 1989.