

**[BFAR ADMINISTRATIVE ORDER NO. 197, S.
2000, February 23, 2000]**

**RULES AND REGULATIONS GOVERNING THE LEASE OF PUBLIC
LANDS FOR FISHPOND DEVELOPMENT**

Pursuant to the provisions of Sections 3, 6, 12, 13, 45, 46, 50, 55, 57, 65 and 107 of Republic Act No. 8550, otherwise known as the Philippine Fisheries Code of 1998, and Section 4 of Republic Act No. 7881, the following rules and regulations governing the lease of public lands for fishpond development purposes are hereby promulgated:

SECTION 1. Definition of terms and phrases. — For purposes of this Order, the following terms and phrases shall mean:

1.1) *Fishpond Lease* — an agreement entered into by and between the Secretary of Agriculture and qualified fishpond applicant for the use of public land for fishpond development purposes for a period of twenty-five (25) years.

1.2) *Permanent improvement* — improvements introduced in the fishpond area which cannot be separated/removed therefrom without causing damage thereto.

1.3) *Temporary improvement* — improvements introduced in the fishpond which can be removed/separated therefrom without causing damage thereto or diminish the usefulness thereof.

1.4) *Fishpond* — a land-based facility enclosed with earthen, stone or concrete material to impound water for the growing of fish.

1.5) *Fish* — includes not only finfish but also mollusks, crustaceans, echinoderms, marine mammals, and all other species of the aquatic flora and fauna.

1.6) *Occupied* — actual or constructive possession over the fishpond area.

1.7) *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 qualified to occupy or use it, refuses or fails to exercise his preferential right thereto.

1.8) *Mangroves/tidal swamps/marshes* — a community of intertidal plants including all species of trees, shrubs, vines and herbs found on coasts, swamps, or border of swamps.

1.9) *Foreshore land* — a string of land margining a body of water; the part of a seashore between the low-water line usually at the seaward

margin of a low tide terrace and the upper limit of wave wash at high tide usually marked by a beach scarp or berm.

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

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

1.12) *Undeveloped fishpond area* — areas not enclosed by dikes; or enclosed by dikes without functional water control structures; or those 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 only 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.

1.13) *Developed fishpond* — area 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.

1.14) *Fully developed fishpond* — a clean, leveled 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; consists of at least a nursery pond, a transition pond, a rearing pond, or a combination of any or all of said classes of ponds and a functional water control system and producing in a commercial scale.

1.15) *Commercial-scale producing fishpond* — a fully developed fishpond producing not less than 1000 kilograms of fish per hectare per year.

1.16) *Person* — natural or juridical entities such as individuals, associations, partnerships, cooperatives or corporations.

1.17) *Fisherfolk* — people directly or personally and physically engaged in taking and/or culturing and processing fishery and/or aquatic resources.

1.18) *Fisherfolk cooperative* — a duly registered association of fisherfolk with a common bond of interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contribution to the capital requirement and accepting a fair share of the risks and benefits of the undertakings in accordance with universally accepted cooperative principles.

1.19) *Fisherfolk organization* — an organized group, association, federation, alliance or an institution of fisherfolk which has at least fifteen (15) members, a set of officers, a constitution and by-laws, an organizational structure and a program of action.

1.20) *Small and medium enterprise* — any business activity or enterprise engaged in industry, agribusiness and/or services, whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant equipment are situated, must have value falling under the following categories:

Micro	:	less than P1,500,001
Small	:	P1,500,001 – P15,000,000
Medium	:	P15,000,001 – P60,000,000

1.21) *Environmental Compliance Certificate* — a permit issued by the President or his duly authorized representative certifying that the new fishpond development will not bring about unacceptable environmental impact and that the proponent has complied with the requirements of EIS system.

1.22) *Department* — Department of Agriculture

1.23) *Secretary* — Secretary of Agriculture

1.24) *Bureau* — Bureau of Fisheries and Aquatic Resources

1.25) *Director* — Director of Fisheries and Aquatic Resources

1.26) *Regional Office* — BFAR Regional Office

1.27) *Regional Director* — BFAR Regional Director

1.28) *Authorized representatives* — include the BFAR Regional Director or other officials of the regional office designated by the Regional Director and other officials and employees of the BFAR or the Office of the Secretary duly designated by the Director or the Secretary.

1.29) *Resource rent* — the difference between the value of the products produced from harvesting a publicly owned resource less the cost of producing it, where cost includes the normal return to capital and normal return to labor.

SECTION 2. Lease of Public Lands for Fishpond Development .

— A Fishpond Lease Agreement (FLA) must be secured by a person who shall occupy or use any portion of the public lands declared by the Secretary of Environment and Natural Resources as available for fishpond purposes and released to the Bureau for its management and disposition in accordance with the provisions of this Order.

SECTION 3. Persons Who May Apply for Lease . — The following persons may apply for fishpond lease:

- a) Citizens of the Philippines who are at least twenty-one years of age;
- b) Corporations duly incorporated and registered under the laws of the Philippines at least sixty per centum (60%) of the capital stock or interest of which belongs to citizens of the Philippines; and

- c) Fisherfolk cooperatives/associations and small and medium enterprises duly organized or registered under the laws of the Philippines.

SECTION 4. Preference in the Disposition of Public Lands for Fishpond Purposes. — Upon the effectivity of Republic Act No. 8550, FLAs may be issued for public lands that may be declared available for fishpond development primarily to qualified fisherfolk cooperatives/associations. Provided, however, that in cases of existing FLAs, the current lessees shall be given priority upon its expiration and shall be entitled to an extension of another twenty-five (25) years in the utilization of their respective leased areas. Thereafter, such FLAs shall be granted to any Filipino Citizen with preference primarily to qualified fisherfolk cooperatives/associations as well as small and medium enterprises as defined under Republic Act No. 8289.

SECTION 5. Size of Fishpond . — The area of fishpond to be leased shall be governed by the following:

- a) An individual may be allowed to lease an area of not exceeding fifty (50) hectares;
- b) Husband and wife living together may be granted an aggregate area not exceeding fifty (50) hectares: Provided, however, that husband and wife living separately by virtue of a decree of legal separation may apply for an area not exceeding fifty (50) hectares each;
- c) A corporation, association or cooperative may be granted an area not exceeding two hundred fifty (250) hectares;
- d) Any branch of the government, person or association who will engage in fishpond development for scientific, research or education purposes may be granted an area of not exceeding ten (10) hectares through a gratuitous permit.

SECTION 6. Period of Lease . — The lease shall be for a period of twenty-five (25) years, renewable for another twenty-five (25) years subject to Sec. 4 of this Order, the terms and conditions of the lease and other existing fishery laws, rules and regulations.

SECTION 7. Preemptive Rights of Heirs. — In case of the death of the lessee, his spouse and/or children as legal heirs, provided they are qualified, shall have preemptive rights to the unexpired term of his Fishpond Lease Agreement, upon filing of a fishpond application within ninety (90) days from the death of the lessee subject to the same terms and conditions as originally provided therein.

SECTION 8. Initial Requirements in the Filing of Fishpond Application . — The initial requirements for the filing of fishpond lease application are as follows:

- a) Four (4) copies of the sketch plan of the area released for fishpond purposes with its technical description as

extracted from the Land Classification Map of the Forest Management Bureau;

b) In case the area applied for fishpond development is within the alienable and disposable land under the jurisdiction of the Land Management Bureau, the comment of that Office must first be secured to the effect that it interposes no objection to the issuance of a fishpond lease over the area;

c) In case of a juridical person, two (2) certified true copies of Articles of Incorporation or Association duly approved by government agencies concerned, the primary purpose of which is to engage in fishpond development;

d) Certificate of bank deposit issued by any banking institution showing that the applicant has an initial capital in cash of P10,000.00 per hectare or fraction thereof and/or its equivalent assets;

e) An affidavit declaring that the initial capital deposited in the Bank shall be used exclusively for the development of the area; and

f) Certification from the DENR that the area is available for fishpond development.

SECTION 9. Application Fee. — A non-refundable application fee of One Thousand (P1,000.00) pesos shall be paid to the Bureau or its Regional Offices upon filing of the application which shall be remitted to the National Fisheries Research and Development Institute (NFRDI).

SECTION 10. When Application is Considered Filed . — An application for lease shall be considered filed on the date and time the original thereof is actually received in the Bureau or its Regional Offices where the area is located. Applications with incomplete initial requirements shall not be processed.

SECTION 11. Priority Right of Application . — In determining the priority applications, the following rules shall be observed:

a) When two or more applications are filed for the same area which is unoccupied or unimproved, the first applicant shall have the right of preference thereto.

b) Between an applicant for and a bona fide occupant of an area available for fishpond purposes, the latter shall have the right of preference to the said area, in which case, the actual occupant if qualified shall be advised by the Director to file a fishpond application within thirty (30) days from his receipt or a notice to that effect. If the occupant is not qualified under the law to apply for the land, or loses his rights for failure or refusal to present his fishpond application within the time granted above, he shall be required to vacate the premises.