

Republic of the Philippines
Department of Agriculture and Natural Resources
PHILIPPINE FISHERIES COMMISSION
Intramuros, Manila

FISHERIES ADMINISTRATIVE)

ORDER NO. 79)

SUBJECT: Rules and Regulations governing the issuance of concessions or permits for pearl culture and production within established government farms.

Pursuant to the provisions of Sections 4, 35 and 74 of Act 4003, as amended, otherwise known as the Fisheries Act, and of Section 4(c) of R.A. 3512, the following rules and regulations governing the special use of definite marine areas in the Philippine waters by granting concessions or permits over established government farms, for pearl culture and production are hereby promulgated.

Sec. 1. Definitions - The words and terms used in this Order shall be construed as follows:

- a) "Philippine waters, or territorial waters of the Philippines" include all waters pertaining to the Philippine Archipelago, as defined in the treaties between the United States and Spain, dated respectively the tenth of December, eighteen hundred ninety-eight and the seventh of November, nineteen hundred.
- b) "Open" applies to beds, banks, shell fields and areas in the Philippine waters which have not been brought within the operation of an order of closure which has been or may hereafter be promulgated by the Secretary.
- c) "Sell and Sale" includes barter, exchange and offering or exposing for sale.
- d) "Concession or permit" includes the grant of the privilege or the privilege itself of culturing and producing pearls, or the area covered by the concession or permit under this Order.
- e) "Pearl farm" shall mean not only the place or area in the concession where pearl is cultured or produce but also the buildings, wharves and other permanent improvements introduced by the concessionaire or permittee in the government farm.
- f) "Person" includes association, partnership or corporation and their authorized representatives.

- g) "Carrier" includes owner, operator and /or agents of land, air and water transportation.
- h) "Pearl" shall mean the by-product of mollusca composed mostly of calcium carbonate held together by tenuous net-work or organic matter known as "conchiolin" which formed through natural process when foreign material called "nucleus" is either incidentally or artificially introduced within the living mollusk.
- i) "Pearl culture" shall mean the process of producing pearls in the living mollusk, either in marine or fresh water and which includes the taking or collecting of young shells, raising, rearing or tending them in farms established and maintained for the purpose, extraction, grading and classification of pearls taken therefrom, and other acts or business associated with the culture and production of pearls.
- j) "Public purpose" includes any purpose declared by the proper authorities to be for public purposes.
- k) "Improvements" includes permanent and temporary improvements, "Permanent improvement" includes those which are annexed to the land under concession or permit in such a manner that they cannot be separated therefrom without causing damage thereto. "Temporary improvements" refers to those which can be removed without causing any damage to or diminishing the usefulness of the land under concession or permit and to which the same has been attached.
- l) "Commission" refers to the Philippine Fisheries Commission.
- m) "Commissioner" refers to the Commissioner of Fisheries.
- n) "Secretary" refers to the Secretary of Agriculture and Natural Resources.

Sec. 2. Who may operate government farms - Authority to lease. -
The Commissioner under whose administration government farms, for pearl culture and production is placed, may equip, operate and/or maintain them exclusively for pearl culture and production in a manner he may deem proper; Provided, however, that in case there are no available funds and technical personnel available for use in the operation and/or maintenance of said farms, he may recommend to the Secretary that the privilege to undertake the pearl culture and production in the established government farms, be let under concession or permit to any person, association, partnership or corporation qualified under the Fisheries Act and the general law to transact business in the Philippines.

Sec. 3. Who are entitled to obtain concession or permit. - The Secretary, upon recommendation of the Commissioner, may grant a concession or permit for establishment and/or operation of pearl farms, for pearl culture and production purposes, in the government farms, to any applicant who is a citizen of the Philippines or of the United States, or to any association, partnership or corporation duly registered or incorporated under the laws of the Philippines or of the United States or of any state thereof, and authorized to transact business in the Philippines, and at least sixty per centum (60%) of the capital stock or interest of which belongs wholly to citizens of the Philippines or of the United States.

It is understood that the rights granted to citizens of the United States and to all forms of business enterprise owned or controlled, directly or indirectly, by citizens of the United States, in the exploitation, exploration, development or utilization of the pearl farms established under this Administrative Order shall be subject to the provisions of the Ordinance Appended to the Philippine Constitution.

An individual applicant for a concession or permit must be at least 21 years of age. A married woman must first obtain the marital consent of her husband, unless she shows by affidavit of herself and attested by two witnesses, some good and sufficient causes or reasons satisfactory to the Commissioner that said consent is not necessary or cannot be obtained.

Sec. 4. Form and contents of applications. - All applications for a concession or permit shall be submitted on a form prescribed therefor and shall contain such pertinent information as may be required by the Commissioner or Secretary. In case the applicant is an association, partnership, corporation, the application shall be accompanied by the documents specified hereunder, namely:

a) Partnership, association or corporation: A copy of the articles of partnership or incorporation, as the case maybe, duly registered in the Securities and Exchange Commission.

b) Names of officers, members, domicile, citizenship, shares or participation of each in the association, partnership or corporation, and that said association, partnership or corporation is organized under the laws of the Philippines or of the United States.

c) Statement of the association, partnership or Board of Directors authorizing the person who signs the application to file the same in accordance with this Order and to bind the association, partnership or corporation to the requirements of said Order and of the rules and regulations that may later be promulgated thereunder.

d) For both individual and association or corporation: Extent and description of concession or area applied for giving the longitude and latitude, and describing how it is marked at the corners and boundaries. Use of Coast and Geodetic Maps preferable.

e) Capital or capital stock available for investment.

f) Means of securing the aquatic products desired.

Sec. 5. Place of filing. - An application shall be filed in quadruplicate with the Office of the Commissioner, Manila, or with any of the Regional Offices of the Commission.

Sec. 6. Fee to accompany application. - An application must be accompanied by a duly certified check, or money order payable in the name of the Commissioner of Fisheries, Manila or by cash, in the amount of P50.00. Application fees are not refundable.

Sec. 7. Concession or Permit embodied in Fisheries Administrative Order. - A concession or permit can only be issued to any applicant after pertinent or specific Fisheries Administrative Order describing and specifically reserving certain definite marine area or areas applied for as recommended by the Commissioner to the Secretary has been approved.

Sec. 8. Duration or period of concession or permit. - A concession or permit issued under this Order shall be for a period of ten years (minimum). Renewals may be granted but the combined period of the original grant and its renewals shall not exceed fifty (50) years.

Sec. 9. Bond. - Before any concession or permit may be issued, the applicant shall, as guaranty of good faith for the satisfactory compliance with the Fisheries Act, the regulations, rules and the terms and conditions of the concession or permit, and the payment of annual fees and charges due, be required to deposit in cash the amount of P5,000.00 with the Commission and which shall be maintained in force as Bond Deposit throughout the duration of the concession or permit.

Sec. 10. Annual permit or concession fee. - There shall be paid to the Commission an annual permit or concession fee of P500.00 per square kilometer and, for any fraction of the area to be granted, there shall be an additional payment of P250.00. This fee shall be paid in advance. The minimum concession fee is P500.00 per square kilometer or fraction thereof.

Sec. 11. Concession or permit fee: when due and payable. - The annual concession or permit fee becomes due and payable on the first day of January of every year.

Sec. 12. Additional charges for default in payment of concession or permit fee. - Failure to pay the annual permit or concession fee on or before January 31, shall subject the concessionaire or permittee to an additional charge based on the amount of the original fee and in accordance with the following schedule:

Annual fee paid from February 1 to March 31	- - - -	10%
" " " " April 1 to June 30	- - - -	15%
" " " " July 1 to Sept. 30	- - - -	20%
" " " " Oct. 1 to Dec. 31	- - - -	25%
" " " " after one year	- - - -	40%

In cases of concessions or permits expiring on dates other than December 31, the additional charge shall be computed and adjusted accordingly following the above schedule.

Sec. 13. Suspension or cancellation. - The application, concession or permit may be suspended or cancelled for any of the following reasons:

- a) Serious or continued violation of the Fisheries law, rules and regulations promulgated thereunder, or any of the terms and conditions, of the concession or permit;
- b) Repudiation or abandonment of the concession or permit.
- c) When public interests so require;
- d) Failure or refusal to pay without justifiable cause the fees, the deposit and/or additional charges in accordance with the provisions of this Order, without prejudice to any action which the government may take to recover the amount due;
- e) Fraudulent or false or misleading statement made by the applicant or concessionaire or permittee;
- f) Failure to keep complete records of the quantity and quality of cultured pearls in the concession; or to submit the certificate of release called for in Section 22 of this Order;
- g) Employment of alien technicians in violation of FAO No. 48, as amended;
- h) Failure to use the concession or permit within four (4) months after its issuance; and
- i) Sub-letting the area under concession or permits.
- j) The cancellation of the concession or permit for any of the causes just above-mentioned shall carry with it the forfeiture of the Bond Deposit in favor of the government.

Sec. 14. Refund of Bond. - A concessionaire or permittee that cannot ~~discontinue~~ with the operation of the concession or whose concession or permit is cancelled, through no fault of his or its own, may request the Commissioner for the refund of the Bond Deposit. The original of the official receipt acknowledging the said amount must be surrendered; but in case of loss of said receipt, an affidavit citing the circumstances surrounding its loss must be submitted in lieu thereof.

Sec. 15. Rights of the concessionaire or permittee. - The concessionaire or permittee may freely take or gather shells of any kind from the sea bottom or reefs exclusively for pearl culture and production purposes within the area under concession or permit. Said concessionaire or permittee shall not, however, take or gather or cause or consent to be taken or gathered from the said area fish, shells, sponges, and other sea products for commercial purposes.

Sec. 16. Marking of boundaries. - The concessionaire or permittee after the grant of the concession or permit shall mark every corner of the entire area of the concession with properly anchored buoys or other visible marks or signs which shall be maintained therein throughout the duration of the concession or permit.

Sec. 17. Renewal of concession or permit. - The concession or permit may be renewed by filing with the Commission a renewal application one month before the expiration date of said concession or permit. The application must be accompanied by the required application fee of P50.00. The renewal of the concession or permit shall be subject to the discretion of the Commissioner and the Secretary: Provided, That the concessionaire has not been guilty of any violation of this Order, the fishery laws and the rules and regulations promulgated thereunder.

Sec. 18. Records of cultured pearls. - The concessionaire or permittee shall keep book or books wherein shall be entered the size, weight, quality and quantity of cultured pearls, gathered or collected; the names and addresses of buyers thereof, if any; the date of sale; the quantity and quality of pearls sold; and the selling price thereof.

Sec. 19. Inspection of records. - Said record book or books shall be kept at all times open to inspection by the Commissioner or by the Secretary, or their duly authorized representatives.

Sec. 20. Semestral report. - The concessionaire or permittee shall submit to the Commissioner a semestral report of the operation and progress of the concession.

Sec. 21. Certificate under oath of pearls gathered. - The concessionaire or permittee shall, before disposing his or its pearls, or before shipping or exporting the same from the Philippines, execute a certificate under oath to the effect that the pearls were gathered or collected from his concession.

Sec. 22. Exportation. - No pearls produced by any concessionaire shall be shipped, removed or exported from the Philippines unless the same have been inspected by an authorized representative of the Commissioner. The inspecting representative of the Commissioner shall issue a certificate of release, if he finds that the pearls are properly graded, classified and priced for exportation purposes, in accordance with the existing regulations. The exporter or carrier who exports or carries pearls without the certificate of release herein required shall be held responsible for such violation and shall be penalized in accordance with Section 6 of Republic Act 3512. Such violation shall be cause for the cancellation of the permit or concession.

Sec. 23. Minimum shells, pearl divers and pearling boats. - The removal of shell from any pearl farm for the purpose of extracting the pearl therefrom, and the sizes of the shells, shall be governed by the provisions of Section 36 of the Fisheries Act and of Fisheries Administrative Order No. 11. Likewise, pearl divers, as well as the boats used for pearling purposes, shall be governed by the pertinent provisions of the Fisheries Act and by the rules and regulations thereunder promulgated.

Sec. 24. Concession subject to easement etc. The area granted under this order shall be subject to right of way or any public purpose and easement provided by existing rules, laws and regulations or by those which may be promulgated thereafter.

Sec. 25. Concession subject to limitation .- The Commissioner, upon approval of the Secretary, may, at any time, increase, decrease or alter the area covered by the concession or permit or change or modify the terms and conditions thereof, when public interest so requires.

Sec. 26. Concessionaire or permittee to carry permit at all times.- The permit or photostat copy thereof must be carried at all times by the concessionaire or permittee or by his authorized representative, and shall be presented upon demand by any Officer or person designated by the Commissioner or by the Secretary to enforce the provisions of this Order. Failure to comply with the requirement without satisfactory reason therefor may be sufficient cause for the cancellation or suspension of the concession or permit. Should any such concession or permit be found with defaced, erased or illegible date of issue, the same shall be seized at once by the said authorized person who shall report the matter to the Commissioner or the Secretary, as the case may be, within three days from the date of seizure.

Sec. 27. Inspection of concession, building, etc.- The concession including the buildings and other constructions, apparatuses, equipment, machineries, and other matters pertaining to the operation of the concession or permit, shall be subject to the periodical inspections of the Commissioner or Secretary, as the case may be, or of their duly authorized representative. The concessionaire or permittee shall, in such case, give all the necessary facilities to the inspecting officials or representative.

Sec. 28. Responsibility of concessionaire or permittee.- No concession or permit shall be granted except upon the express condition that the concessionaire or permittee shall assume the responsibility for any act of any of the agents, employees and other persons operating and working for and under the concessionaire or permittee. The concessionaire ~~or~~ permittee must supervise the operation of the employees, either personally or thru a competent agent, whose names, citizenships, and addresses must be furnished the Commissioner.

Sec. 29. Training of understudies.- The concessionaire or permittee shall thoroughly train or cause to be trained at least three (3) Filipinos to be designated by the Commissioner in the techniques of pearl culture and production. Such trainees, who shall be chosen from among the technical men or qualified employees of the Commission, shall be entitled to free quarters to be provided by the concessionaire or permittee in the compound of the concession during the entire period of training, which shall be one (1) year, renewable for another year at the discretion of the Commissioner.

Sec. 30. Surrender of concession or permit upon death of concessionaire or termination or dissolution of partnership, association or corporation or for other reasons.- A concessionaire or permittee retiring from the business must surrender the concession or permit with a statement of the reason or reasons therefor. In case of the termination or dissolution of the partnership, association or corporation, the trustee, if any, shall notify the Commissioner thereof. In case of death of the individual concessionaire or permittee, the heir or heirs shall do the notification. In the meantime, the trustee, if any, of the corporation, association or partnership or the heir or heirs of the concessionaire may invoice the pearls gathered under the concession. The lawful successor of the corporation, etc., or heir or heirs of the deceased concessionaire or permittee, if qualified, may be allowed to continue in their name the operation of the concession: Provided, that the requirements of this Order shall have first been complied with.

Sec. 31. Disposition of improvements or property.--Any property or improvement of the concessionaire or permittee not removed from the concession within two (2) months from the date of the cancellation or termination of the concession or permit shall become the property of the government.

Sec. 32. Areas or Zones not covered by concession or permit.-- No concession or permit granted under this Order shall be valid within army or naval reservation nor within three(3) kilometers from such reservation.

Sec. 33. Auxiliary invoice.-- Before transporting pearls gathered or collected from the concession, the concessionaire or permittee shall list such pearls on an auxiliary invoice to be furnished by the Commissioner or by the Regional Fishery Office^s concerned. The auxiliary invoice shall be made in quadruplicate and shall accompany the pearls described therein, from which they must not be separated until such pearls arrive at their destination.

Sec. 34. Transported pearls with invoice. The concessionaire or the duly authorized representative shall immediately notify the Commissioner of the pending shipment and request for auxiliary invoice and Inspecting Officer who shall certify to the veracity of the matter stated in the auxiliary invoice and who shall issue the corresponding certificate of release in accordance with this Order.

Sec. 35. Presentation of auxiliary invoice at destination.-- Permit to discharge.--No owner or master of any vessel shall discharge or otherwise dispose of the pearls aboard without any discharge permit issued by the Commissioner or his duly authorized representative, as provided in this Order. The concessionaire or his agent shall, upon arrival of the shipment of pearls at the point of destination, present the auxiliary invoice to a duly authorized Officer who shall sign the auxiliary invoice after his inspection.

Sec. 36. Unlawful pearl culture operation in government farm.-- It shall be unlawful for any person, partnership, association or corporation to engage in pearl culture and/or production on any portion of any established government pearl farm without first obtaining a concession or permit therefor in accordance with this Order. Any improvement unlawfully introduced shall be forfeited to the government and the violator shall be made to pay the fine provided for in the succeeding Section of this Order.

Sec. 37. Penal provision.-- Any violation of the provision of this Order shall subject the offender to the penalty provided for in Section 6 of Republic Act 3512, which is a fine of not more than one thousand pesos or cancellation of the concession or permit at the discretion of the Commissioner and approved by the Secretary.


Sec. 38. Compromise.-- With the approval of the Secretary, the Commissioner may at any stage compromise any case arising under the provision of this Order.

Sec. 39. Repealing provisions.-- All other orders and regulations or parts thereof, inconsistent with the provisions of this Order, are hereby repealed.

Sec. 40. Effectivity. - This Administrative Order shall take effect sixty (60) days after its publication in the Official Gazette.

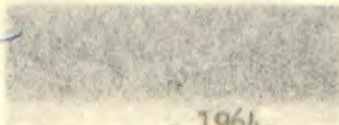
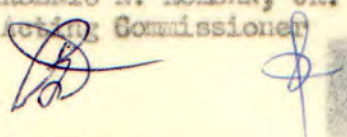
Issued at Diliman, Quezon City, this _____ day of _____, 1964.

JOSE Y. FELICIANO
Acting Secretary of Agriculture
and Natural Resources



RECOMMENDED:

ARSENIO N. ROLDAN, JR.
Acting Commissioner



APPROVED: _____, 1964.

BY AUTHORITY OF THE PRESIDENT:

Executive Secretary