

FISHERIES ADMINISTRATIVE)

ORDER NO. 83)

March 16, ^V1966

SUBJECT: Regulations governing the
issuance of Oyster Bed Permits
or Leases on public forest lands *PS.*
or swamps.

Pursuant to the provisions of Section 79 (b) Act No. 2711, the Revised Administrative Code, and Sections 4, 63, and 64 of Act No. 4003, as amended, and Section 4 (h) of Republic Act No. 3512, the following rules and regulations governing the granting of Oyster Bed Permits and Leases for certain tract or tracts of public forest land or swamps are hereby promulgated:

I - WORDS AND TERMS DEFINED

SECTION 1.- Definition.- In applying the provisions of this Administrative Order, the words and terms herein used shall be construed as follows:

(a) "Oyster" is one of the shell fishes used as food, a kind of mollusk having a soft and segmented body protected by a hard shell that is never shed, but is added to layer upon layer, as the animal grows. This outside skeleton consists of two (2) valves. For this reason, oysters are called bivalves. Locomotion is by means of a wig shaped muscular organ called a foot. The oyster's gills are highly developed for feeding as well as for breathing, and are usually covered by a thin fold of flesh.

(b) "Permit" refers to a yearly Oyster Bed Permit.

(c) "Lease" refers to a lease agreement or contract.

(d) "Forest Land" is synonymous with timber land and vacant public land not declared alienable and disposable under the provisions of the Public Land Law.

(e) "Timber Land" as defined in Act No. 2874 ^{July 1911} embraces all public forest lands coming under the preventive and permanent jurisdiction of the Bureau of Forestry and classified for administrative purposes as within the forest zone and other special ⁹⁰ forests.

(f) "Forest Reserves" refer to timber lands surveyed or not surveyed in accordance with the Bureau of Lands standard, shall, after their proclamation as forest reserves, be designated as such.

(g) "Public Purposes" include any purpose declared by the proper authorities for public interest.

(h) "Person" the plural or singular, as the case demands, includes natural persons, individuals or corporations.

(i) "Individuals" include association or partnership.

(j) "Permanent Improvement" includes those which are permanently annexed to the land under permit or lease in such a manner that they can not be separated therefrom without causing damage thereto.

(k) "Temporary Improvement" refers to those which can be removed without causing damage to or diminishing the usefulness of the land under lease and to which the same has been attached.

(l) "Unoccupied" refers to an area which is not reserved for public purposes and/or which is not occupied by any person or if occupied by any 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.

(m) "Oyster Bed" is an aquatic habitat usually in cove, bay, estuary, or shallow open seas, the bottom of which is either sand, clay, rock and gravel

or coral and most of the time is under water which is either brackish or strictly marine and where oysters are cultivated or just grow naturally in commercial quantities.

(n) "Fisheries" refers to the catching, taking, handling, marketing, preserving of fish and other aquatic products; the fishing grounds and the right to fish and to take products therefrom.

(o) "Commissioner" unless otherwise specified refers to the Commissioner of Fisheries.

(p) "Secretary" unless otherwise specified refers to the Secretary of Agriculture and Natural Resources.

(q) "Authorized representative" includes Regional Director, District Fishery Officer, Fishpond Investigator, Fishery Inspector, Fishery Agents and other officials and employees of the Philippine Fisheries Commission or of the Office of the Secretary designated by the Commissioner or by the Secretary, as the case may be.

II - PERMITS AND LEASES

SECTION 2.- Use of forest land or swamp.- No person shall occupy or use any portion of the public forest land including tidal, mangrove and other swamps, ponds and streams within public forest lands or proclaimed timber lands, or established reserves, for oyster bed purposes, without first securing therefor a permit or lease in accordance with the provisions of this Order.

SEC. 3.- Permit and Lease.- (a) "Permit" - A permit for oyster bed over a tract of forest swamp land not exceeding fifty (50) hectares for a term not exceeding one (1) year may be issued by the Commissioner. For an area of more than fifty (50) hectares, a permit may be issued by the Commissioner with the approval of the Secretary.

(b) "Lease Agreement" - A lease agreement or contract for a period not exceeding ten (10) years may be granted by the Secretary upon recommendation of the Commissioner to the permittee who has planted oyster in the whole area after one year from the date the original permit had been issued.

SEC. 4.- Area that may be granted.- Any natural person qualified under the law and the provisions of this Order to acquire public forest lands or swamps for oyster culture may be granted a permit or lease covering an area not exceeding fifty (50) hectares; and any partnership, association or corporation duly registered with the Securities and Exchange Commission and authorized by law to transact business in the Philippines may be granted a permit or lease covering an area not exceeding one hundred (100) hectares.

SEC. 5.- When permit may be issued.- A permit may be issued only after an application has been duly filed; the area applied for duly certified by the Director of Forestry, as available for oyster culture purposes; the area, as inspected and investigated by an authorized representative, declared suitable for oyster culture purposes; and the applicant has paid the rental and cash bond deposit in accordance with this Order.

SEC. 6.- When lease may be granted.- A lease may be granted upon application and after compliance with the requirements of sub-section (b), section 3 of this Order.

SEC. 7.- Rights and obligations of permittee or lessee.- (a) Unless otherwise specified, the permit or lease shall confer upon the holder thereof only the right to use for a certain stated period of time the definite tract or tracts of public forest swamps described in the permit or lease, exclusively for the purpose therein stated, and under the terms and conditions therein contained.

(b) The permittee is under obligation ~~to~~ introduce improvements on the area covered by a permit in the following manner: At least one-fifth (1/5) of the area covered by a permit shall be planted with oyster within four (4) months from the issuance of the original permit; and the remaining portion shall be completely and fully planted with oyster within one (1) year from the issuance of the original permit.

(c) The permittee shall completely fence or enclose the area within a period of one year from the issuance of the permit: Provided, however, That an area such as a river or communal fishing ground should be excluded from such fencing or enclosure in order not

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to obstruct navigation and legitimate fishing operations.

(d) Portion or portions of the area under permit or lease not planted with oyster after one year from the issuance of the original permit shall be segregated and made available to other interested and qualified applicants.

SEC. 8.- Who are entitled to obtain permit or lease.- A permit or lease may be issued to :

(a) Citizens of the Philippines or of the United States (Parity Law);

(b) Corporations or associations duly incorporated or registered under the laws of the Philippines, and at least 60 per centum of the capital stock and interest of which belongs wholly to citizens of the Philippines;

(c) Associations or partnerships duly organized by citizens of the Philippines and registered under the laws of the Philippines.

(d) An individual applicant for a permit or lease 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 two witnesses, some good and sufficient causes satisfactory to the Commissioner or Secretary, as the case may be, that said consent is not legally necessary or cannot be feasibly obtained.

III - APPLICATIONS

SEC. 9.- Forms and contents of applications.- All applications for permit or lease shall be submitted on a form prescribed therefor. In case the applicant is a corporation or association, the applications shall be accompanied by documents consisting of articles of incorporations or partnership, by-laws, and certificate of registration or such other document showing that the applicant is qualified under this Order.

SEC. 10.- Place of filing and filing fee.- An application shall be filed in triplicate with the Office of the Commissioner and must be accompanied by the required application fee of ₱5.00 either in cash or in postal money order payable to the Commissioner. The application fee is not refundable.

SEC. 11.- When application is considered filed.- An application shall be considered filed on the date the original thereof was actually received in the Office of the Commissioner, which date must be stamped on the face of the application, and not on the date when it was prepared or mailed.

SEC. 12.- Recording of application.- All applications received shall be duly given serial numbers and shall be duly recorded in a Registry Book provided for the purpose.

SEC. 13.- Priority rights of application.- In determining the priority of applications, the following rules shall be observed:

- (a) When two or more applications are filed for the same area which is unoccupied and unimproved, the first applicant shall have the right of preference thereto.
- (b) Between the prior applicant and bona-fide occupant of an area available for oyster culture 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 Commissioner to file an oyster bed application within 30 days from receipt of the notice to that effect. If the occupant is not qualified under the law to apply for oyster bed, or fails or refuses to present his oyster bed application within the time granted therein, he shall be required to vacate the premises.
- (c) If two or more applications are filed for the same area on the same date, the applicant who can best meet the requirements of the Fisheries Law, rules and regulations based on financial capacity and technical know-how, shall have the right of preference thereto.

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IV - FEES AND RENTALS

SEC. 14.- Schedule of rentals.- Except as herein provided, the yearly rental for each permit or lease of public forests land or swamps for oyster culture purposes shall be ₱10.00 per hectare or fraction thereof, to be paid in advance.

SEC. 15.- Rental to whom payable.- Payment of the annual rental shall be made to the Commissioner or his duly authorized representative.

SEC. 16.- Rental when due and payable.- The initial rental shall accrue on the day the permit or lease is issued or granted. The annual rental shall become due and payable on the first day of the month following the date of expiration of the permit or lease of each year.

SEC. 17.- Additional charges for default and payment of annual rental.- After the expiration of the license or permit herein granted, the permittee is given a one (1) month grace period within which to pay the original rental without surcharge after compliance with Section 22 (b) of this Order. Failure to pay the annual rental after the grace period has elapsed shall subject the permittee or lessee to additional charges based on the annual rental and computed on the following schedule:

Rental paid within two months after the grace period - - - - -	10%
Rental paid within the third and fifth months after the grace period- - - -	15%
Rental paid within the sixth and eighth months after the grace period- - - -	20%
Rental paid within the ninth and eleventh months after the grace period- - - -	25%
Rental paid one (1) year after the grace period - - - - -	40%

SEC. 18.- Refund of rentals.- Rentals paid during the year the permit or lease is cancelled for no fault of the permittee or lessee or for failure to occupy and use the land covered thereby for reasons acceptable to the Commissioner or Secretary, as the case may be, may be refunded, provided that the Government shall suffer no damage by reason thereof.

V - BOND

SEC. 19.- Bond.- Before any permit or lease is issued or granted the applicant shall, as guaranty of good faith in filing the application and for satisfactory compliance with this Order, the Fisheries Law, and the rules and regulations thereunder promulgated and the terms and conditions of the permit or lease, be required to deposit with the Commissioner a cash bond of ₱10.00 per hectare or fraction thereof, payable in advance.

SEC. 20.- Refund of cash bond.- Cash bond deposit shall be refunded only upon the request of the permittee or lessee when he is no longer interested to continue with the operation of the area and upon surrendering the official receipt covering the cash bond deposit: Provided, however, That he has not violated any provision of this Order, the Fisheries Law, and the rules and regulations thereunder promulgated, as well as the terms and conditions of the permit or lease. In case of loss of official receipt, an affidavit must be submitted stating the circumstances surrounding the loss.

SEC. 21.- Forfeiture of bond.- The Commissioner or the Secretary may confiscate or forfeit the bond in favor of the Government for any of the following reasons:

- (a) Violation of, and/or failure to fulfill, any of the terms, conditions or requirements under which the permit^{was} granted.
- (b) Violation of any provisions of this Order, the Fisheries Law or the rules and regulations thereunder promulgated.
- (c) Cancellation of the permit or lease.

VI - EXPIRATION AND RENEWAL OF PERMIT OR LEASE

SEC. 22.- Date of expiration of permit or lease.-

- (a) A permit or lease granted under this Order shall expire as stipulated in the permit or lease.
- (b) A permit or lease may be renewed or extended upon the expiration of the permit granted therein for another period not exceeding that for which the original permit or lease was issued or granted: Provided, however, That the application for renewal must be filed on or before the expiration of the permit or lease; and, Provided, further, That failure to file said application for renewal as herein required shall be considered as a manifestation of lack or loss of interest to continue the operation of the area, in which case, the permit or lease shall be considered and deemed terminated and automatically cancelled. A renewal application must be accompanied by the required application fee of P5.00 either in cash or postal money order payable to the Commissioner.

VII - GENERAL PROVISIONS

SEC. 23.- Collection and Appropriation.- All revenues accruing to the National Government paid and/or collected in accordance with the provisions of this Order shall be credited to the Philippine Fisheries Commission in accordance with Act No. 4003, as amended, and Republic Act No. 3512.

SEC. 24.- General conditions under which permits or leases are issued.- Every permit or lease shall be governed by the provisions of this Order, as well as by those which may after hereafter be issued or promulgated, especially the following rules and conditions:

- (a) Power of Congress.- Permits or leases limit in no way the right of congress to impose such terms and conditions as it may consider necessary for public interest.

- (b) Permittee or lessee shall comply with the laws, rules and regulations.- The permittee or lessee subjects himself or itself unconditionally to all laws, rules and regulations now existing and to those that may hereafter be promulgated governing fisheries.
- (c) No title acquired.- A permittee or lessee shall have no right to a title or claim of any sort whatsoever over the area covered by the permit or lease. No such land shall be deemed to be occupied within the meaning of the Public Land Act but shall remain subject to disposition under the Forestry and Fisheries Laws, Rules and Regulations.
- (d) Adjudication of area and damage.- The Commissioner or the Secretary, as the case may be, shall not be responsible for any loss or damage occasioned by the adjudication of the area in favor of any claimant by any competent court and the permittee or lessee shall not have any right to claim for damage arising from such decision.
- (e) Interference with prior claimant prohibited.- The permittee or lessee shall not interfere with any prior right by occupation or settlement until the consent of the occupant is first had and obtained or until such claim shall have been legally extinguished.
- (f) Statements in application as parts or conditions of permits or leases.- Any or all the statements made in the corresponding application shall be considered as essential conditions and parts of the permit or lease issued or granted. Any false statement in the application or material omission of facts or alteration, change or modification of any or all of the terms and conditions mentioned therein shall ipso facto cause the cancellation of the permit or lease.
- (g) Exclusive privilege.- No license or permit to exploit any other resources within the area granted detrimental to the permittee or lessee shall be granted to the other persons.

- (h) Sanitary conditions of buildings and premises.- The permittee or lessee shall keep the buildings or premises in a neat and sanitary condition and shall be subject to all laws, rules and regulations relative thereto.
- (i) Rights of cutting timber by forestry licensee.- The permittee or lessee shall not prevent the cutting of timber or gathering of other forest products from the area by forestry licensees, provided, it does not interfere with the operation of the oyster bed.
- (j) Free access to area.- The Secretary, the Undersecretaries for Agriculture and Natural Resources, and the Commissioner of Fisheries and his deputies, and their duly authorized representatives shall have free access at all times to the area under permit or lease.
- (k) Public roads.- All the existing roads and trails and means of transportation which pass thru or adjoin the area under permit or lease shall not be obstructed.
- (l) Free navigation.- The permittee or lessee shall not obstruct the free navigation in any public stream adjoining or flowing thru the area, prohibit or interfere with the passage of people along such streams or the banks thereof, or impede the flow and ebb of the tide to and from the interior of the swamps or streams.
- (m) Survey.- If the permittee or lessee does not agree to the area resulting from the survey made and described in the permit or lease, he may ask at any time that an exact plan of the land be made by a qualified surveyor and duly approved by the Director of Lands. The cost of the survey in this case shall be paid by the permittee or lessee.
- (n) Corners and boundary lines.- The permittee or lessee is under obligation to conserve by means of post, stones, or marked trees, the corners and boundary lines of the area occupied.

- (o) Disposition and Improvements.- (1) The permittee or lessee shall have no right by virtue of the said permit or lease to claim reimbursement for the expenses incurred for improvements of whatever kind which he may have introduced on the area, before, during or after the expiration of the permit or lease; (2) Upon the expiration of cancellation of the permit or lease, the improvements existing therein shall become the property of the Government; (3) If the rights to and improvements in the area covered by the permit or lease have been transferred by the permittee or lessee to another, the transferee may secure a permit or lease therefor, by complying with the rules and regulations relative thereto; and (4) When an applicant who is entitled to preferential right fails and/or ^{refuses to} comply with certain requirements within the period specified or his application is rejected or cancelled, the rights to and the improvements in the area applied for shall be forfeited to the Government.

VIII - DUTIES OF PERMITTEES AND LESSEES

SEC. 25.- Duties of permittees and lessees.- Every permittee or lessee shall be governed by this Order and the laws, rules and regulations governing fisheries, more specifically by the following:

- (a) To take precaution as may be necessary to prevent injury to the public forest.
- (b) To be responsible for any injury to the public forest covered by the permit or lease which may be caused by the operation of the area or by the actuation of the representative or employees of the permittee or lessee.
- (c) To submit to the Commissioner, in a prescribed form, a quarterly report of oysters harvested or disposed of by him and to submit such other statements on the operation as may be required from time to time.

- (d) To report to the Commissioner or the authorities concerned, any person found fishing with explosives or poisonous substances, and to report any illegal or unlawful act within or adjoining the area covered by the permit or lease.
- (e) To keep records of transactions in connection with the permit or lease as may be required.
- (f) To permit at any time any duly authorized representative of the Secretary or the Commissioner to inspect all the records required in connection with the operation of the area.
- (g) To vacate the area covered by the permit or lease upon its expiration and cancellation. The said permit or lease should be surrendered to the Commissioner.

IX - SUSPENSION OR CANCELLATION

SEC. 26.- Suspension or cancellation.- The application, permit, or lease may be suspended or cancelled for any of the following reasons:

- (a) Serious or continued violation of the Fisheries and/or Forestry Laws, the rules and regulations promulgated thereunder, or any of the terms and conditions of the permit or lease, and the lawful instructions of this Office.
- (b) Repudiation or abandonment of the area granted.
- (c) Lack of interest, or voluntary request by the permittee or lessee.
- (d) When public interests so require.
- (e) Failure of the applicant to secure the survey, inspection, investigation of the area applied for within the period of ninety (90) days from the date of filing of the application.

- (f) Failure or refusal to pay without justifiable cause the fees, bond deposit, rentals 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.
- (g) Failure of the permittee or lessee to introduce improvements over the area as provided under Section 7 hereof.
- (h) The cancellation of the permit or lease for any of the causes mentioned in sub-sections (a) to (g) hereof shall carry with it the forfeiture of the bond in favor of the Government.

SEC. 27.- Termination of lease or permit upon death of permittee or lessee.- The permit or lease shall terminate upon the death of the permittee or lessee. However, a new permit or lease upon application within ninety (90) days from the date of the death of the permittee or lessee may be issued or granted to the heirs or assigns, as the case may be, if duly qualified to hold oyster bed permit in accordance with the requirements of this Order.

SEC. 28.- When transfer or sub-lease of rights may be allowed.- A transfer or sub-lease of the rights to and/or improvements in the area covered by the permit or lease may be allowed, subject to the following conditions:

- (a) That the permittee or lessee has held the permit or lease for at least two (2) years from the date said permit or lease had been granted.
- (b) That the transferee or sub-lessee shall assume not only the rights but also the obligations of the transferor or the sub-lessor relative to such permit or lease.
- (c) That said transfer or sub-lease shall be subject to the laws, rules and regulations stipulated in this Order and to those that may hereafter be promulgated governing oyster beds.

- (d) That any transfer or sub-lease without the previous approval of the Secretary shall be null and void and deemed sufficient cause for the cancellation of the permit or lease, and the forfeiture of the improvements and the bond deposited in connection therewith, in favor of the government.
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X - PENAL PROVISIONS

SEC. 29.- Administrative or court action.- The Secretary, the Commissioner, or their duly authorized representatives may take such action, either administrative or judicial, as may be necessary and proper to carry into effect the provisions of this Order.

SEC. 30.- Unlawful use or occupation of forest swamp lands and water area for oyster bed culture.- Any applicant using or occupying areas for oyster culture in violation of the provisions of Section 2 of this Order shall be charged double the annual rentals for the area so used or occupied, from the date said area has been certified available for oyster culture purposes by the Director of Forestry, and for the entire duration of such unlawful use or occupation.

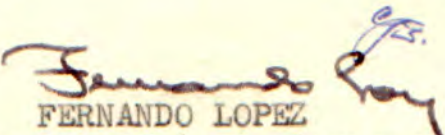
SEC. 31.- Upon failure or refusal to pay the charges herein above-mentioned, the said applicant shall be liable to prosecution and upon conviction shall suffer the penalty provided in Section 83 of Act No. 4003, as amended, which is a fine of not more than two hundred pesos (P200.00) or imprisonment for not more than six (6) months, or both, in the discretion of the court.

XI - FINAL PROVISIONS

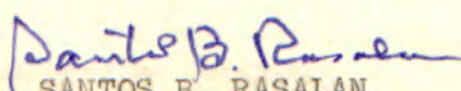
SEC. 32.- Repealing Clause.- Any fisheries administrative order, or parts thereof, and all rules and regulations contrary to and inconsistent with the provisions of this Order are hereby repealed.

SEC. 33.- Date of effectivity of this Order.-
This Order shall take effect upon its approval.

Date approved : July 1. 6


FERNANDO LOPEZ
Secretary of Agriculture and
Natural Resources

RECOMMENDED BY:


SANTOS B. RASALAN
Acting Deputy Commissioner and
Concurrently Officer-in-Charge