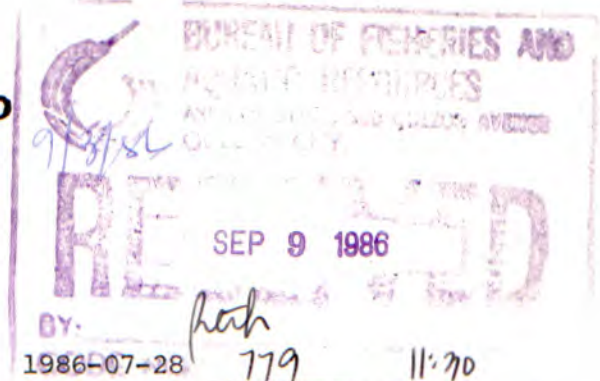




Republic of the Philippines
MINISTRY OF AGRICULTURE AND FOOD
Office of the Minister
Elliptical Road, Diliman, Quezon City



FISHERIES ADMINISTRATIVE)
ORDER NO. 161 :
Series of 1986.

SUBJECT: Revised rules and regulations
governing the issuance of lease
for pearl culture.

Pursuant to the provisions of Sections 4, 7 and 16 of Presidential Decree No. 704, otherwise known as the "Fisheries Decree of 1975", the following rules and regulations for the issuance of lease for the culture of pearls are hereby promulgated:

SECTION 1. Definition of terms and phrases. - For the purpose of this Order, the following words and phrases shall mean:

- (a) Pearl - a dense shelly concretion formed as an abnormal growth within the shell of some mollusks particularly the Genus Pinctada sp.. It is composed of a nacre deposited in extremely thin concentric layers about some foreign particles (natural or artificial), and may lie freely within or beneath the mantle, either free from or attached to the shell. The most common color may be silvery or satiny luster or black.
- (b) Pearl culture - 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 pearl farms.
- (c) Pearl farm - the place or area in Philippine waters where pearls are cultured including the improvements introduced by the lessee thereon.
- (d) Lease - a contract entered into by and between the Minister and the lessee over a pearl farm for a period of twenty-five (25) years and renewable for the same period.

- (e) Improvement - the permanent and temporary improvements introduced thereon.
- (f) Bureau - Bureau of Fisheries and Aquatic Resources.
- (g) Director - Director of Fisheries and Aquatic Resources.
- (h) Minister - Minister of Agriculture and Food.
- (i) Ministry - Ministry of Agriculture and Food.

SEC. 2. Prohibition. - No person, association, partnership, corporation or cooperative shall operate a pearl farm without a lease issued by the Minister.

SEC. 3. Who may apply for a lease. -

- (a) Citizens of the Philippines; and
- (b) Association, partnership, corporation or cooperative duly registered in accordance with law at least sixty (60%) per centum of the authorized capital stock of which belongs wholly to citizens of the Philippines.

SEC. 4. Area that may be granted. -

- (a) For individual - not exceeding ten (10.0) hectares.
- (b) Association, partnership, corporation or cooperative may be granted an area of not exceeding one hundred (100.0) hectares.
- (c) The provisions of the preceding paragraphs (a) and (b) notwithstanding, the Minister may, upon the recommendation of the Director, increase or decrease the area that may be granted for reasons of public interest, taking into consideration (1) the financial capacity and/or qualification of the applicant; (2) the socio-economic importance of the project or industry for which the area is applied; and (3) the existence of numerous applications for lease in the place where the area applied for is located.

SEC. 5. Filing of application for pearl farm lease. - An application for pearl farm lease shall be filed with the Central Office of the Bureau accompanied by the following documents:

- (a) A xerox copy of the Articles of Incorporation and/or By-Laws of corporation, association, partnership or cooperative, whenever applicable;

- (b) Project/Feasibility Study;
- (c) Certification from a government banking institution showing that the applicant has a cash deposit of at least 20% of the project cost as initial operating capital;
- (d) Five (5) copies of Bureau of Coast and Geodetic Survey Nautical Chart indicating the site and area of the pearl farm; and
- (e) Initial Environmental Examination (IEE).

SEC. 6. Application fee. - An application fee of ₱100.00 shall be paid to the Bureau upon filing of the application.

SEC. 7. When an 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.

SEC. 8. Recording of applications. - All applications shall be numbered consecutively and recorded on the Registry Book provided for the purpose indicating therein the names and addresses of the applicants, the dates and time they have been filed, the areas applied for and their locations.

SEC. 9. Marking of boundaries. - Upon issuance of the lease, the lessee shall mark the metes and bounds of the entire area with anchored buoys or other visible marks or signs which shall be maintained throughout the duration of the lease.

SEC. 10. Minimum size of shells; pearl divers and pearling boats. - The size of shells which shall be gathered for pearl purposes; the employment of pearl divers, and the use of pearling boats shall be governed by the applicable provisions of the fishery laws, rules and regulations.

SEC. 11. Inspection of pearl farms. - The pearl farm shall be subject to periodical inspection by the Director or his duly authorized representatives.

SEC. 12. Training of understudies. - A lessee employing foreign pearl culture technicians shall allow two (2) technical men of the Bureau designated by the Director to undertake studies and observations on the techniques of pearl culture and who shall be provided with free quarters only during the period of training and observation.

SEC. 13. Inspection of pearls. - Before the issuance of a Special Permit/Commodity Clearance to export pearls, the same shall be inspected by the Director or his duly authorized representatives after which a Certificate of Inspection shall be issued. The Certificate of Inspection, among others, shall contain the following information: (a) Size-average long axis measurement in millimeters; (b) weight in grams; (c) shape - whether spherical or baroque; (d) color - whether silver, blue, green, pink, rainbow, cream, yellow or golden and black (dark-blue gray or gun metal); and (e) quantity - in pieces, which shall be entered on a prescribed form in five (5) copies furnished by the Bureau. The original and one copy thereof shall be issued to the exporter, and the last two carbon copies shall be retained by the Bureau. For such inspection, administrative and technical services, the exportation fee provided for in existing rules and regulations on the matter shall be collected.

SEC. 14. Free gathering of shells for pearl culture. - The lessee may freely take or gather shells from the sea-bottom of the area under lease exclusively for pearl culture purposes. The lease contemplated in this Order shall not, however, authorize the lessee to take, gather or cause to be taken or gathered from the said area, fish, shells, sponges, and other sea products for commercial purposes.

SEC. 15. Declaration under oath of pearls gathered. - The lessee, before disposing the pearls or before shipping or exporting the same shall execute an affidavit to the effect that the pearls were gathered or collected from the leased area.

SEC. 16. Record book of cultured pearls. - The lessee shall keep a record book wherein shall be entered the size, weight, quality and quantity of pearls cultured, gathered or collected; the names and addresses of the buyers thereof, if any, the date of sale, the quantity and quality of pearls sold; and the selling price thereof.

SEC. 17. Inspection of record books. - Record books shall be kept at all times open to inspection by the Director or his duly authorized representatives.

SEC. 18. Semestral report. - The lessee shall within ten (10) days after the end of every six (6) months submit to the Director a semi-annual progress report of the operation of the pearl farm.

SEC. 19. Rejection of application. - An application for lease shall be rejected on any of the following grounds:

- (a) Lack or loss of interest over the area applied for;
- (b) Upon request of the applicant;

- (c) When applicant is not qualified;
- (d) Area applied for is not available or suitable for pearl culture;
- (e) Failure to comply with any of the requirements of Section 5 of this Order;
- (f) Upon the death of the natural or dissolution of the juridical applicant;
- (g) Fraudulent, false or misleading statements or information stated in the application;
- (h) Unauthorized occupancy or introduction of improvements over the area applied for; and
- (i) When public interest so requires.

SEC. 20. Duration of lease. - The lease shall be for a period of twenty-five (25) years, renewable thereafter for another twenty-five (25) years subject to existing fishery laws, rules and regulations.

SEC. 21. Annual rental. - There shall be paid to the Bureau an annual rental fee in the amount of One Hundred (P100.00) Pesos per hectare or fraction thereof.

SEC. 22. Annual rental when due and payable. - After the payment of the initial annual rental, the subsequent rentals shall become due and payable on the first working day of January of each year.

SEC. 23. Surcharges. - Failure to pay the annual rentals on the due dates thereof shall subject the lessee to surcharges as follows:

Annual rental paid after due date to March 31	10%
Annual rental paid from April 1 to June 30	15%
Annual rental paid from July 1 to September 30	20%
Annual rental paid from October 1 to December 31	25%
Annual rental paid after one year	40%

SEC. 24. Cash bond deposit. - Before a lease is issued to an applicant, he shall post a cash bond deposit in the amount of Fifty (P50.00) Pesos per hectare or fraction thereof, as guarantee for the satisfactory compliance of the fishery laws, rules and regulations and the terms and conditions of the lease.

SEC. 25. Refund of cash bond deposits. - Upon expiration or termination of the lease through no fault of the lessee, a written request for the refund of the cash bond deposit may be filed and the original of the official receipt thereof shall be surrendered. In case of loss of said official receipt, an affidavit of loss may be submitted in lieu thereof.

SEC. 26. When transfer of leasehold rights and interests over the area may be allowed. - The lessee may transfer his leasehold rights and interests over the pearl farm area under the following conditions:

- (a) The transferor has hold the leased area for a period of three (3) years from the approval thereof;
- (b) The transferor has not violated any provisions of the fishery laws, rules and regulations relative to the operation of the pearl farm including the terms and conditions of the lease;
- (c) The transferee is qualified to develop and operate the pearl farm area pursuant to the provisions of this Order; and
- (d) The area subject of the transfer is not involved in any administrative or judicial case.

SEC. 27. Requirements for transfer of leasehold rights and interests. - An applicant for transfer of leasehold rights and interests shall submit the following requirements:

- (a) Original copy of the Deed of Transfer and/or Assignment of Leasehold Rights and Interests and Assumption of Obligations;
- (b) An application duly accomplished by the transferee;
- (c) Xerox copies of original receipt of updated payments of rentals;
- (d) Payment of transfer fee in the amount of Five (P5.00) Pesos per hectare or fraction thereof;
- (e) Application fee of P100.00;
- (f) Posting of the required cash bond deposit; and
- (g) Latest report of improvements duly verified and inspected by the Inspecting Officer and certified to by the Regional Director concerned.

SEC. 28. Effectivity of transfer of leasehold rights and interests. - Transfer of leasehold rights and interest over pearl farm area shall become effective upon approval thereof by the Minister,

SEC. 29. Cancellation or termination of lease. - The lease issued under this Order may be cancelled or terminated on any of the following grounds:

- (a) Violation of the applicable fishery laws, rules and regulations, or any of the terms and conditions of the lease;

- (b) Abandonment of the area;
- (c) Upon request of the lessee;
- (d) Failure to keep record books in accordance with this Order;
- (e) Fraudulent, false or misleading statements stated in the application;
- (f) Failure to pay the annual rentals and surcharges;
- (g) Death of the natural or dissolution of the juridical lessee; and
- (h) When public interest so requires.

SEC. 30. Gratuitous permit. - A gratuitous permit may, upon the recommendation of the Director, be issued by the Minister to duly recognized government educational or research institutions subject to existing fishery laws, rules and regulations and the terms and conditions that may be imposed.

SEC. 31. Death of natural or dissolution of the juridical lessee. - The lease issued under this Order shall terminate upon the death of the natural or dissolution of the juridical lessee; Provided, However, that upon the death of the natural or dissolution of the juridical lessee, a new lease may be issued in favor of his qualified surviving legal heirs or successors-in-interest who shall file an application together with the required documents within ninety (90) days from the death or dissolution of such lessee.

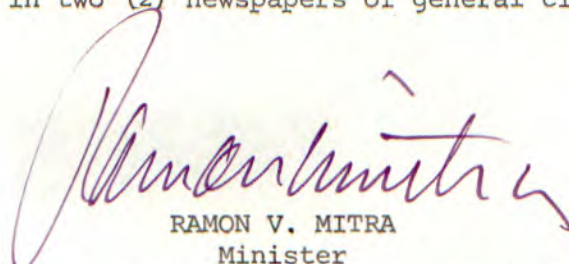
SEC. 32. Effect of the termination of the lease. - Upon the cancellation or termination of the lease for cause mentioned under Section 29 of this Order and failure on the part of the surviving legal heirs or successors-in-interest to exercise the rights provided for in the preceding Section, any person occupying the pearl farm area shall upon order of the Director immediately vacate and turn over to the Bureau the area subject of the lease.

SEC. 33. Disposition of pearl farm lot and forfeited improvements. - Where the lease had been cancelled or terminated and the leasehold rights therein have not been assigned to any financing institution, the existing improvements on the pearl farm area subject of said lease shall be considered automatically forfeited in favor of the government for further disposition by the Bureau pursuant to the applicable laws, rules and regulations on the matter; Provided, That in case the leasehold rights over the pearl farm area have been assigned to any financing institution, the existing improvements thereon shall be disposed by the Bureau in consultation with the said financing institution.

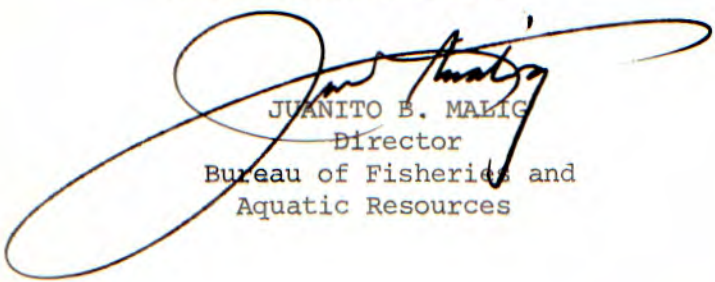
SEC. 34. Penal Clause. - Violation of any provision of this Order shall subject the offender to a fine of from Five Hundred Pesos (P500.00) to Five Thousand Pesos (P5,000.00) or imprisonment from six (6) months to four (4) years or both such fine and imprisonment in the discretion of the Court: Provided, That the Director is hereby empowered to impose an administrative fine of not more than Five Thousand Pesos (P5,000.00) including the confiscation of the pearling boat, other pearling paraphernalia and improvements thereon in favor of the government.

SEC. 35. Repealing Clause. - Fisheries Administrative Order No. 140 dated February 5, 1982 is hereby revised and all existing administrative orders, rules and regulations or parts thereof which are inconsistent with the provisions of this Order are repealed or amended accordingly.

SEC. 36. Effectivity. - This Administrative Order shall take effect within fifteen (15) days after its publication in the Official Gazette and/or in two (2) newspapers of general circulation.


RAMON V. MITRA
Minister
Ministry of Agriculture and Food

RECOMMENDING APPROVAL:


JUANITO B. MALIG
Director
Bureau of Fisheries and
Aquatic Resources