

**DENR Administrative Order
No. 99-34
August 10, 1999**

SUBJECT : Rules and Regulations Governing the Administration, Management and Development of Foreshore Areas, Marshy Lands and Other Lands Bordering Bodies of Water.

Pursuant to the provisions of Sections 3, 4 and 5 of the Public Land Act in order to rationalize and regulate the utilization and occupation of foreshore areas, marshy lands and other lands bordering bodies of water, the following rules and regulations are hereby issued for the guidance of all concerned:

Section 1. Policies and Objectives

Consistent with its mandate to accelerate the country's development and the need to conserve and protect the natural resources and the coastal environment, the Department of Environment and Natural Resources shall:

- a) Adhere to the government's policy to tap all resources that can generate income to carry out the developmental programs;
- b) Promote the improvement and sustainable use of our country's foreshore and areas through effective and efficient management schemes and strategies;
- c) Institutionalize a cohesive partnership between the government and foreshore contract holders for the conservation and maintenance of an ecologically balanced environment without compromising the financial benefits to be derived from user's fees and other similar fees;
- d) Provide a generally accepted scheme to ensure its free access to the area for recreation, educational and sports purposes.

Sec. 2 Definition of Terms

The following terms are to be understood and interpreted as follows:

- a) **Foreshore Lands** - the part of the shore which is alternately covered and uncovered by the ebb and flow of the tide.
- b) **Foreshore Lease Application** - the type of application covering foreshore lands, marshy lands and other lands bordering bodies of water for commercial, industrial or other productive purposes other than agriculture.
- c) **Foreshore Lease Contract** - is the agreement between the DENR and the applicant which contains specific terms and conditions.
- d) **Marshy Lands** - a wetland whose soil is permanently or protractedly saturated by water and whose vegetation is dominated by grasses or sedges.

Sec. 3 Scope

This Order covers all foreshore and marshy lands or lands covered with water bordering upon shores or banks of navigable lakes or rivers. All mangrove areas are excluded from the coverage of this Order.

Sec. 4 Maximum Area That May Be Released

Any person, corporation, association or partnership may lease not more than 144 hectares.

Sec. 5 Application for Foreshore Lands

Foreshore Lease Contract shall not be issued or renewed unless an application therefore has been filed and in accordance with previous Order and provided further that an application for renewal shall be filed at least Sixty (60) days prior to its expiration.

Sec. 6 Transfer of Rights

If at any time the applicant may die before the issuance of the Foreshore Lease Contract or during the life of the lease or while the applicant still has obligations pending towards the Government, he/she shall be succeeded in his/her rights and obligations by his/her heirs who shall be entitled to be issued the contract, subject however, to the compliance of certain requirements therefor and the subrogation to all his/her rights and obligations under the law.

Sec. 7 Who May Apply

1. Any Filipino citizen of lawful age.
2. Corporations, associations or partnerships duly constituted under the laws of the Philippines; at least sixty per centum (60%) of the capital is owned by Filipino citizens.

Sec. 8 Form, Contents and Supporting Documents

Application shall be filed in a form to be prescribed by the DENR. The application form shall contain particulars on the nature of the proposed utilization, development or activity, the location and size of the area, the sketch, boundaries and brief description thereof, and such other information that the DENR may require.

An application shall only be accepted if properly subscribed and sworn to by the applicant, or in the case of juridical person, by its president, general manager or duly authorized agent, and accompanied by the following documents:

- a. If the applicant is a government official or employee, whether in the career or non-career service, a written permission from the department head or head of the agency concerned.

- b. If the applicant is a naturalized Filipino citizen, a copy of his certificate of naturalization certified by the duly concerned agency that issued the same. And a certification by the Office of the Solicitor General that it has not filed or taken any action for his denaturalization, or any action that may affect his citizenship.
- c. If the applicant is a corporation, association or cooperative, (1) three copies of its articles of incorporation, (2) three copies of its by-laws, (3) three copies of the minutes of the latest organizational meeting of its stockholders/general assembly, electing the present members of the Board of Directors, (4) three copies of the resolution adopted at said meetings, electing the present members of the Board of Directors certified to by its Secretary, (5) three copies of the minutes of the latest organizational meeting of the Board of Directors, electing the present officers of the corporation, association, or cooperative, certified by its Secretary, (6) three copies of the minutes of the latest organizational meeting of the Board of Directors indicating the authority of the officer to file the application in behalf of the corporation.

The articles of incorporation must show an undertaking that there will be no transfer of stocks/shares that will change the citizenship and capital structure of the corporation, association or cooperative and should there be any transfer of stock/share, it shall not be effected without the approval of the DENR Secretary upon the recommendation of the Regional Executive Director concerned. All the above documents must be certified to be filed with the appropriate government agency and the certification must be signed by the duly authorized officer of said Agency.

- d. If the applicant uses a name, style or trade name, other than the true name, three copies of the certificate of registration of such name, style or trade name with the Department of Trade and Industry (DTI) certified by an authorized officer of said Department. The application must further be accompanied by

three certified copies of the income tax return for the preceding year, if the applicant was already in existence at the time and required to file said return.

Sec. 9 Where to File the Application

The Foreshore Lease Application (FLA) or renewal thereof shall be filed with the Community Environment and Natural Resources Office (CENRO) which has jurisdiction over the area.

Sec. 10 When to File the Application

All applications shall be numbered, stamped and recorded in the book provided for the purpose in chronological order showing the number, the date and the time of receipt thereof.

Sec. 11 Application Fees

An application for a new and renewal of FLA shall be accepted only when accompanied by an application fee in the amount of ₱ 100.00 plus documentary stamp. The fee is non-refundable.

Sec. 12 Term of a Foreshore Lease

The Foreshore Lease Agreement (FLA) shall be for a period of twenty five years and renewable for another twenty five years.

Sec. 13 Procedural Steps in Processing

1. Filing of application at the CENRO;
2. Preliminary investigation and appraisal of the land applied for;
3. Survey of the land;

4. Recommendation to the official concerned for the approval of the appraisal and request for authority to lease the land through bidding;
5. Approval of appraisal and grant of authority to lease the land through bidding by the official concerned;
6. Payment of publication expenses if the appraised value of the land is more than ₱240.00;
7. Publication of the notice of right to lease the land applied for in the Official Gazette and/or two newspapers of general circulation (one in English and the other in the local dialect) once a week for six consecutive weeks and posting of the notice for six weeks at the bulletin boards of the following:
 - a) CENRO
 - b) Municipal/City Halls
 - c) Barangay Hall
 - d) On the land itself
8. Public auction and submission of report of bidding, proofs of payment of at least three months user's fee, publication and posting of the notice;
9. Order of Award;
10. Preparation of the Lease Contract upon payment of one user's fee;
11. Letter to the applicant enclosing the lease contract for his/her signature and that of two credible witnesses and for notarization;
12. Letter forwarding the lease contract to the official concerned for his approval and for notarization;
13. Letter to the applicant transmitting the approved Lease Contract.

Sec. 14 Requirements in the Preparation and Execution of Lease Contract

1. Original copy of the Official Receipt of the Application Fee;
2. Approved plan and technical description of the land applied for;
3. Consent of the spouse, if married;
4. Articles of Incorporation and Certificate of Registration from the Securities and Exchange Commission, if a corporation;
5. Certification that the land applied for is not needed for public use from the heads of the following agencies/offices;
 - a) Provincial Tourism Office
 - b) Philippine Ports Authority
 - c) Municipal/District/City Engineer's Office with concurrence of the Regional Director of Public Works and Highways
6. Feasibility study stating among others the financial and technical capability to undertake the project; and
7. Environmental Compliance Certificate (ECC).

Sec. 15 Who are authorize to issue foreshore lease contracts?

Pursuant to DENR AO 98-24 Series of 1998, the following officials are authorized to issue Foreshore Lease Contracts:

1. PENRO (Provincial Environment and Natural Resources Officer) - For areas up to 1,000 square meters.
2. RED (Regional Executive Director) - Areas more than 1,000 square meters up to 30,000 square meters
3. Secretary – Areas more than 30,000 square meters

Sec. 16 Bidding Procedures

The lease shall be made through bidding and adjudication shall be made to the highest bidder. However, where an applicant has made improvement on the land by virtue of a permit issued to

him by competent authority, the lease shall be made by scaled bidding as prescribed in Section 26 of CA 141.

Sec. 17 User Fees

The annual user fee for the land leased shall not be less than three percentum (3%) of the value of the land and one percentum (1%) of the improvements if any there be in accordance with the appraisal and/or re-appraisal made pursuant to DAO 98-20 S. 1998. The area used and the improvement thereon shall be re-appraised every ten (10) years from the date of the approval of the lease contract. In the event however, that new improvements/development have been introduced, immediate appraisal shall be effected.

Sec. 18 Conditions

The lessee shall not assign, encumber or sublet his rights of the lease without prior consent issued by the PENRO/RED/Secretary of the DENR and violation hereof shall void the contract; Provided, further, that nothing contained in this section shall be understood or construed to permit the assignment, encumbrance or subletting of foreshore lands under C.A. 141 or previous Acts to persons, or associations/corporations which under said Act are not authorized to lease such lands. It is essential that the contract does not confer the right to remove timber, if any there be except as provided under the revised Forestry Laws. Violation of these conditions by the lessee shall operate as a forfeiture of his rights and participation stipulated in the lease contract and render him liable to immediate dispossession and suit for damages.

Sec. 19 Administration, Management and Development

The management, administration and development of foreshore areas, marshy lands and other lands bordering bodies of water shall be assigned to the Natural Resources Development Corporation (NRDC) and as such, it may be authorized to collect users fees due on leases of foreshore lands and whatever fees accruing in the usage of foreshore areas and other lands bordering bodies of water, and subject to the approval of the Secretary of the Department of Environment and Natural Resources, may utilize sixty percentum (60%) of such collections for the total protection of coastal resources and environment, advancement of the rights of the people to a balanced and healthful ecology, coastal biodiversity and such other expenses as may be deemed necessary by the Secretary.

Sec. 20 Expiration of Contracts

Upon final expiration of the lease, or of any extension of the same or cancellation thereof, all buildings and other permanent improvements made by the lessee, his heirs, executors, administrators, successors or assigns shall accrue to the DENR and the NRDC may be allowed to manage and administer said properties in accordance with law.

Sec. 21 Repealing Clause

All orders, rules circulars and other issuances which are inconsistent herewith are hereby revoked, amended or accordingly modified.

Sec. 22 Effectivity

This Order takes effect fifteen (15) days after publication in the Official Gazette and/or any newspaper of general circulation.

(Sgd.) ANTONIO H. CERILLES
Secretary

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