



Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

ADMINISTRATIVE ORDER No. 03
Series of 1995

SUBJECT: Rules and Regulations Governing the Exemption/Exclusion of Fishpond and Prawn Farms From the Coverage of the Comprehensive Agrarian Reform Law (CARL), Pursuant To Republic Act (R.A.) No. 6657, as amended by R.A. No. 7881

I. PREFATORY STATEMENT

Section 1 of R.A. No. 7881 amends Section 3-b of R.A. No. 6657, as it pertains to the definition of agricultural activity. Section 2 of the same law amends Section 10 of the CARL by exempting private lands actually, directly and exclusively used for prawn farms and fishponds as of March 12, 1995¹, provided that said lands have not been distributed and no Certificate of Land Ownership Awards (CLOAs) have been issued to Agrarian Reform Beneficiaries (ARBs). Section 3 of the same law amends Section 11 of R.A. No. 6657 by excluding commercial livestock, poultry and swine raising and aquaculture, including fishponds and prawn farms from the classification of commercial farms that are due for coverage under the Comprehensive Agrarian Reform Program (CARP) after a ten-year deferment period.

Furthermore, Section 4 of R.A. No. 7881 incorporates a new provision under Section 32 of R.A. No. 6657. Section 32-A of the same law mandates the individuals or entities owning or operating fishponds and prawn farms to execute within six (6) months from the effectivity of R.A. No. 7881, a Profit Incentive Plan providing their regular fishpond or prawn farm workers with seven-and-a-half percent (7.5%) share of the net profit before tax from the operation of the fishponds or prawn farms. The incentive shall be distributed within sixty (60) days at the end of the fiscal year over and above the compensation they currently receive.

To effectively carry out the intent and purposes of R.A. No. 7881, these rules and regulations are hereby prescribed.

II. POLICY STATEMENT

A. In general, private agricultural lands owned by individuals or entities actually, directly and exclusively used for prawn farms and fishponds as of March 12, 1995 shall be exempt from the coverage of CARP.

¹Effectivity date of R.A. No. 7881, 15 days after publication in two national newspapers of general circulation.

- B. Lands devoted to prawn farms or fishponds which have already been distributed to ARBs with the corresponding CLOAs issued, being a consummated transaction, shall no longer be exempt from coverage under the CARP.
- C. Fishponds or prawn farms which have already been subjected to the CARL by Voluntary Offer to Sell (VOS) or are under Commercial Farm Deferment (CFD) or for which Notices of Acquisition (NOA) have already been issued to the landowner under the Compulsory Acquisition Scheme, shall be exempt from CARP coverage only upon the consent of a simple and absolute majority of the actual regular workers or tenants within one (1) year from March 12, 1995.

In case the said workers or tenants object to the exemption, the subject fishponds or prawn farms shall be distributed collectively to the worker-beneficiaries or tenants who shall form a cooperative or association to manage the same. **The Land Bank Of The Philippines (LBP) shall extend financial assistance to the said cooperatives or associations through its countryside loan assistance program.**

In the event that the one-year period has elapsed and the required consent has not been obtained, the property becomes subject to CARL.

- D. Acts of harassment by landowners intended to eject or remove the workers or tenants or the loss of their rights, benefits and privileges to which they are entitled shall be sanctioned and dealt with under existing laws, rules and regulations.
- E. Fishpond or prawn farmworkers affected by exemption/exclusion have the option to remain as workers or become beneficiaries in other agricultural lands.

A worker who chooses to remain in the exempted area shall remain therein and shall be entitled to such rights, benefits and privileges granted to farmworkers under existing laws, decrees and executive orders.

However, a worker who chooses to become a beneficiary of agricultural land may be awarded other lands covered by the CARP.

- F. Individuals or entities owning or operating fishponds and prawn farms shall execute, within six (6) months from the effectivity of R.A. No. 7881, an incentive plan for their regular fishpond or prawn farmworkers or their organization, if any.

A profit sharing incentive plan of seven-and-a-half percent (7.5%) of the net profit before tax derived from the operation of fishponds and prawn farms are to be given to regular workers over and above the compensation

above the compensation they currently receive based on the audited financial statements of the enterprise. This shall be distributed to the workers within sixty (60) days from the end of the fiscal year.

- G. The books of the fishpond or prawn farm owners shall be subject to periodic audit or inspection by a Certified Public Accountant to be chosen by the fishpond or prawn farmworkers to safeguard their rights.

III. COVERAGE

These guidelines shall cover all private lands owned by individuals or entities actually, directly, and exclusively used for fishponds or prawn farms as of March 12, 1995.

IV. OPERATING PROCEDURES

- A. The landowner or his authorized representative files a written Application for Land Exemption/Exclusion (Exc. Form No. 1, Annex - A) with the DAR Provincial Office (DARPO). Said application shall be accompanied with the following:

1. Ownership documents and other muniments of title such as Original Certificate of Title or Transfer Certificate of Title (OCT/TCT);
2. Certified true copy of business permit issued by the concerned government agencies, or proof of ownership of fishpond or prawn farm;
3. Certified true copies of Individual Income Tax Returns (BIR Form No. 1701-A) or Corporate Income Tax Returns (BIR Form No. 1702) covering the three (3) calendar years immediately preceding March 8, 1995 with the corresponding audited financial statements of the same years;
4. Certified true copy of the Certificate of Registration issued by the Securities and Exchange Commission if applicant is a corporation;
5. Location plan or vicinity map of the property;
6. Sketch plan of the area indicating the improvement and other facilities existing therein; and
7. Profit Incentive Plan containing the following information:
 - a. Name of individual/entity
 - b. Address of the establishment

- c. Commodity produced
- d. Names of employees (actual regular fishpond and prawn farmworkers) as of March 12, 1995
- e. Estimated total net profit before tax
- f. Estimated amount of profit to be distributed to each employee

B. DAR Provincial Office (DARPO)

1. Upon receipt of the application for exemption/exclusion, conduct, with the assistance of the BARC, the Municipal Agrarian Reform Officer (MARO), and the fishpond and prawn farm specialist of the Bureau of Fisheries and Aquatic Resources (BFAR), an ocular inspection/investigation of the land to determine, among others:
 - a. Status of ownership ;
 - b. Type and area of the land sought to be excluded/exempted;
 - c. Validity/accuracy of the list of actual regular fishpond and prawn farmworkers or tenants submitted by the applicant as required under Item No. IV-A-7 of these guidelines;
 - d. Whether the area has been devoted to fishpond or prawn farm raising prior to March 12, 1995;
 - e. The areas actually used for fishpond or prawn farm purposes; and
 - f. Whether the property has been subjected to Voluntary Offer to Sell (VOS), Commercial Farm Deferment (CFD) or Notice of Acquisition (NOA).
2. Prepare the report of findings and recommendations, and complete all the procedures enumerated above within 30 days from receipt of application (Exc. Form No. 3 Annex-C).
3. In the case of fishponds and prawn farms which have already been subjected to VOS and CFD or for which NOAs have already been issued to the landowner, the following procedures shall be observed:
 - a. Schedule a meeting/conference and invite in writing the operators/entities and all fishpond and prawn farmworkers/tenants, (using the prescribed Exc. Form No. 4, Annex D) for the purpose of determining the consent of a simple and absolute majority of the actual regular workers or tenants on the CARP exemption. Fishpond and prawn farmworkers to be invited to the said meeting shall be based on the validated list indicated on the investigation report (Excl. Form No. 2).
 - b. Ascertain the consensus of the farmworkers or tenants through secret balloting. A three-man committee composed

of one representative from the fishpond and prawn farm-workers, agrarian reform technologist, and the landowner or his/her authorized representative, shall be created by the PARO to conduct the secret balloting to be supervised by the MARO.

Consent of the simple and absolute majority shall mean a vote of fifty percent (50%) plus one of the total regular fishpond and prawn farmworkers (Annex E). Otherwise, no consensus has been reached.

- c. In the event that majority of the actual workers or tenants object to the exemption/exclusion, the fishponds and prawn farms shall be distributed collectively to the worker-beneficiaries or tenants who shall form a cooperative or association to manage the same.
4. Compile all relevant documents to form the Application for Land Exclusion Folder (ALEF), and transmit the same to the Regional Director (Exclusion Form No. 5 Annex F).

C. REGIONAL DIRECTOR (RD)

1. Review and evaluate the report of findings and recommendations of the Provincial Agrarian Reform Officer (PARO) and MARO, and other documents contained in the ALEF.
2. If the documents are in order, issue an Order of Approval or Order of Denial hereof, otherwise return the ALEF to the DARPO for further action.
3. Forward the Order of Approval or Denial to the PARO for distribution to the concerned or contending parties and counsel, if any, furnishing a copy to the Office of the Secretary, Undersecretary for Field Operations, Legal Affairs Office [ATTN: Bureau of Agrarian Reform Legal Assistance (BALA)], and Management Information Service within fifteen (15) days from the release of the Order of Approval or Denial.

The order of the RD approving or denying the application for exemption shall become final and executory fifteen (15) days from receipt of the same unless an appeal is made to the DAR Secretary.

4. In case of denial of the application for exclusion, the DAR Regional Office (DARRO) through the DARPO and DAR Municipal Office (DARMO) shall cause the acquisition and distribution of the property in accordance with A.O. No. 1, Series of 1993, and other

related issuances after the lapse of fifteen (15) days of the reglementary period.

5. Perform the duties and functions enumerated above within ten (10) working days from receipt of the ALEF from the PARO.

V. FILING/RESOLUTION OF MOTIONS AND APPEALS

The filing of motions for reconsideration with the RD and appeal to the Secretary shall be governed by Section III of A.O. No. 9, Series of 1994, regarding the authority of all RDs to hear and decide all protests involving the coverage under R.A. No. 6657 or P.D. No. 27 and defining the appeal process from the RDs to the Secretary.

VI. ENFORCEMENT

The Secretary of the Department of Agrarian Reform and the Regional Directors shall have the power to order and administer compliance with the Profit Incentive Plan provisions and to require submission of reports, compel the production of books and documents, compel answers to interrogatories, issue subpoena duces tecum, and enforce its writs through Sheriffs or other duly deputized officers. Violation of any provision of these guidelines and procedures shall be subject to penalty as provided under Section XI hereof.

VII. SETTLEMENT OF DISPUTES

Issues involving Profit Incentive Plan shall be considered as a matter in the administrative implementation of agrarian reform. These disputes shall first be settled through mediation/conciliation pursuant to Section VI of A.O. No. 8, Series of 1994.

Whenever, mediation or conciliation fails, the issues shall be resolved by the Regional Director with a right of appeal to the Office of the Secretary.

VIII. COMPLIANCE REPORT OF PROFIT SHARE PAYMENT

Individuals or entities shall submit under oath, a report on the profit shares distributed, including the special payrolls signed by the employer/landowner or his duly authorized representative, not later than 30 days after completion of distribution of the workers' shares. Two (2) copies of the report shall be submitted to the appropriate DAR Regional Office.

The report shall conform substantially to the following format:

1. Name of Establishment/Employer
2. Address
3. Principal Commodity Produced

4. Total Employment
5. Total Net Profit before Tax (based on the audited financial statements)
6. Amount of Profit Shares Distributed
7. Number of Workers Benefited
8. Average Amount Received per Worker
9. Dates of Distribution of Profit Shares
10. Total Amount of Undistributed/Unclaimed Profit Shares
11. No. of Workers with Undistributed/Unclaimed Profit Shares

Thereafter, the compliance report shall be submitted to the DAR Regional Office every 15th of March.

IX. REVIEW AND REVISION/REVOCAION OF EXCLUSION ORDER

The Office of the Undersecretary for Field Operations shall monitor through reports of the MAROs, cases wherein the bases for which exclusions were granted no longer exist. He shall recommend the revision or revocation of the Certificate of Exemption/Exclusion the subject land or portion thereof to the category of agricultural land covered under CARP.

X. MONITORING

The MARO shall conduct a continuing review and verification of exempted/excluded lands to ascertain whether the subject lands are no longer used for fishpond or prawn farm purposes. If the subject land is no longer used as fishpond or prawn farm, it shall revert to the category of agricultural land, and shall be covered under CARP pursuant to A.O. No. 9, Series of 1990, A.O. No. 1, Series of 1992, as amended by A.O. No. 1, Series of 1993, on land acquisition and distribution, and Section IV of this Administrative Order.

Compliance of the Profit Incentive Plan shall be monitored by the Office of the Regional Director and their representatives.

XI. SANCTION

Any person who knowingly or willfully violates or prevents the implementation of these rules and regulations shall be liable under Section 74 of R.A. No. 6657 and other penalties provided for by law. If the offender is a corporation or association, the officer responsible, therefore, shall be criminally liable.

All parties concerned are advised to report such cases to the Municipal Agrarian Reform Office covering the area or to any office of the DAR for proper action.

XII. EFFECTIVITY

This Administrative Order shall take effect ten (10) days after its publication in two (2) national newspapers of general circulation.

All other orders, circulars, memoranda, rules and regulations inconsistent herewith are hereby revoked, amended or modified, as the case may be.

Diliman, Quezon City 10 May 1995.


ERNESTO D. GARILAO
Secretary

Published in two (2) national newspapers
of general circulation:

1. THE PHILIPPINE STAR
2. THE PHILIPPINE JOURNAL

Date of Publication - May 16, 1995

Republic of the Philippines
DEPARTMENT OF AGRARIAN REFORM
Diliman, Quezon City

APPLICATION FOR EXCLUSION

(Date)

The Secretary
Department of Agrarian Reform
Diliman, Quezon City

THRU: The PARO

S i r :

Pursuant to R.A. No. 7881, may I apply for the exemption/exclusion of my property/ies, located at _____ (Barangay) _____ (Municipality) _____ (Province), with T.C.T./OTC/TC No(s) _____, and which has/have been utilized as _____, since _____.

Attached is/are the ownership document/s and other documents of title of the aforementioned landholding/s together with other requirements, supporting this request for exemption/exclusion:

- Certified true copy of the Original Certificate of Title (OCT)
- Certified true copy of the Transfer Certificate of Title (TCT)
- Certified true copy of Tax Declaration (if the property is untitled)
- Certified true copy of business permit issued by the concerned government agency

- Certified true copy of Individual Income Tax Return (BIR Form No. 1701-A)
- Corporate Income Tax Return (BIR Form No. 1702 if applicant is a corporation) for the year 1992 to 1994
- Certified true copy of the Certificate of Registration issued by the Securities and Exchange Commission (if applicant is a corporation)
- Location plan of the property
- Sketch plan of the area indicating the improvements thereon
- Profit Incentive Plan
- List of actual regular workers or tenants

Very truly yours,

(Name and signature of Applicant)

fn: anex-gab/ ra no.7881 dsk

Exc. Form No. 2

Republic of the Philippines
DEPARTMENT OF AGRARIAN REFORM
Diliman, Quezon City

INVESTIGATION REPORT
(Exclusion)

A. Landowner: _____ Address: _____
Representative/Manager/Agent: _____
Address: _____

B. 1. Title No./s _____ 5. Location:
2. Tax Declaration No. _____ a. Drgy. _____
3. Lot/Survey No./s _____ b. Mun./City _____
4. Area (has) _____ c. Province _____

C. Legal Status:

Absolute Owner

Co-owner

D. Property Acquired Through:

Purchase

Exchange

Others (Specify) _____

Total Area Per Title

Title No. _____ Area _____

1. _____, Area (has.) _____

2. _____, Area (has.) _____

3. _____, Area (has.) _____

Date Acquired (if applicable) _____

Registered Owner/s: (If deceased, indicate name of heirs)

OWNER

HEIRS

OWNER	HEIRS
_____	_____
_____	_____
_____	_____

E. Actual Land Use Actual area (has.) used

1.1 Fishpond _____

1.2 Prawn farm _____

1.3 Names of actual regular farmworkers or tenants *

- | | | | |
|----|-------|----|-------|
| a. | _____ | b. | _____ |
| c. | _____ | d. | _____ |
| e. | _____ | f. | _____ |
| g. | _____ | h. | _____ |
| i. | _____ | j. | _____ |
| k. | _____ | l. | _____ |

F. Other Land Uses, if there is any

Agriculture

Crops Planted	No. of Has.	No. of Tenants	No. of FWs
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Others (specify) _____

G. Improvements.

(Specify) _____

H. Findings:

I. Comments/Remarks/Recommendations:

* Use additional page if necessary and affix.

We hereby certify that the findings contained in this report are based on an ocular inspection of the subject property and actual examination of pertinent documents and that the same are true and correct to the best of our knowledge.

(Name and Signature of the PARO)

(Name and Signature of the NARO)

(Name and Signature of BARC Member)

Date: _____

fn: anex-gab/ ra no.7881 dsk

Excl. Form No. 3

Date

REPORT OF FINDINGS AND RECOMMENDATIONS

Based on the field investigation conducted on the premises, the findings are as follow:

1. The land or portion thereof, consisting of _____ hectares, more or less, is devoted to _____, as described in the Investigation Report Form No. 2.
2. The registered owner (s) of the land is/are _____
3. Other remarks _____

In view of the foregoing, the undersigned hereby recommends the approval disapproval of the request for exclusion of the above-mentioned property.

Name and Signature of the PARO

Name and Signature of the MARO

Excl. No. 4

Republic of the Philippines
DEPARTMENT OF AGRARIAN REFORM
Municipality/City _____
Province of _____

Mr./Mrs./Ms. _____

NOTICE OF MEETING

Dear _____ :

This refers to the Application for Exclusion of _____ from the Land Distribution Program under the Comprehensive Agrarian Reform Law (CARL) which property/ies has/have a total area of _____ hectares located at Barangay/s _____, Municipality/City of _____, Province of _____.

In this regard, may we invite you or your representative to attend a meeting on _____ to be held in _____ at _____ to discuss matters/concerns relative to the said application.

Thank you.

Provincial Agrarian Reform Officer

Republic of the Philippines -
DEPARTMENT OF AGRARIAN REFORM

EXCLUSION TRANSMITTAL MEMO

For: _____

From: _____

Subject: Application for Land Exclusion Folder (Pursuant to R.A. No. 7881) of _____

Respectfully submitted the attached Application for Land Exemption/Exclusion Folder of Mr./Mrs./Ms. _____ together with the following documents:

1. Duly filed up application together with the listed documents submitted by the applicant (Exc. Form No. 1, Annex "A")
2. Investigation Report (Exc. Form No. 2, Annex "B")
3. Findings and Recommendations
4. Others documents (Please specify) _____

Date _____

Name and Signature of PARU

ANNEX F

1. No. of regular workers in fishpond "A" is 30.
2. No. of regular workers attended in the meeting is 20.
3. To get the consent of the simple and absolute majority of the workers, the number of votes should be $15 + 1$, i.e., $1/2$ of total workers plus 1.

In case the number of regular workers who attended the meeting is 15 and below, no votation can be conducted because the attendance does not meet the simple and absolute majority requisite. Another meeting should be scheduled.