

**[DAR ADMINISTRATIVE ORDER NO. 03, s. 1995,
May 10, 1995]**

**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, 1995 (Effectivity date of R.A. No. 7881, 15 days after publication in two national newspapers of general circulation), 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. 7781, 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.

B. Lands devoted to prawn 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 farm workers 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 farm workers 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 farm workers 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 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 farm workers 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 monuments 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 farm workers) 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 farm workers 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