

**[ PPA ADMINISTRATIVE ORDER NO. 06-95,  
December 04, 1995 ]**

**LIBERALIZED REGULATIONS ON PRIVATE PORTS  
CONSTRUCTION, DEVELOPMENT AND OPERATION**

Pursuant to Section 2 (a), (b), Art. II, Section 6 (a) (iii), (iv), (vi), (vii) Art. IV and Section 26 (a) Article VIII of PD 857, the revised Charter of PPA, as amended, as well as relevant provisions of Commonwealth Act 141, and in order to ensure coordination in the processing of applications to develop, construct and operate private ports, the following guidelines are hereby prescribed for the information of and compliance of all concerned.

ARTICLE I

Preliminary Provisions

SECTION 1. *Scope* — This Order shall apply to all parties seeking for clearance to develop, permit to construct and/or operate a private port facility. It shall also specify the roles of PPA units and offices concerned in the processing, evaluation and approval of these applications.

SECTION 2. *Definition of Terms* — For purposes of this Order, the following terms used herein shall be construed to mean as indicated:

2.1 *Port Zone* — An area proclaimed by the President for use as a port pursuant to PD 857.

2.2 *Foreshore* — That part of the land immediately in front of the shore which is between high and low watermarks, and alternately covered with water and left dry by the flux and reflux of the tides and not located in a port zone. It is indicated by the middle line between the highest and lowest tides.

2.3 *Foreshore Lease Agreement for Pier Purposes* — A contract of lease of a foreshore and offshore area of the purpose of constructing and operating a private port granted by the Department of Environment and Natural Resources (DENR) thru the Land Management Bureau, for a period of not more than twenty-five (25) years, renewable for another period not exceeding twenty five (25) years, at the option of the Lessor, subject to existing laws and regulations.

2.4 *Private Port* — A port facility constructed and owned by a private person or entity as authorized by the government. It is classified according to the nature of its operation and purpose, thus:

2.4.1 *Private Non-Commercial Port* — A port facility constructed along the seacoast and owned by a private person or entity as a component of or accessory to its own

business or principal economic activity and which does not offer port services to the general public but exists generally for its own particular use and need. Its use by third party users is only incidental to its operation of the port in view of the availability of specialized and dedicated cargo handling gears and equipment used to handle, usually homogenous cargo, unique to the private port facility, and conducted on a limited and non-commercial basis.

*2.4.2 Private Commercial Port* — A port facility constructed along the seacoast and owned by a private person or entity which offers, as its principal business activity, port services to the general port users. The operation of the port facility is not a mere component of the main business or activity of the owner or operator, but is the main business activity itself.

*2.4.3 Private River Port* — A private port located along a river bank.

*2.4.4 Marina* — A private non-commercial port constructed for the exclusive use of securing motorboats and yachts

### SECTION 3. *General Policy Statements* —

3.1 Subject only to the requirements of national security and public safety and this regulations, the development and operation of private ports is hereby encouraged.

3.2 A private port facility may be established upon approval of the general proposal to develop such private port facility from the PPA. Private river ports, private non-commercial ports, and Marina/s may be allowed construction at the level of the General Manager, while all others will be subject to PPA Board approval.

3.3 The Certificate of Registration/Permit to Operate a private port facility shall be given a period of twenty-five (25) years but not to exceed the term of its foreshore lease contract. This may be renewable for another 25 years but co-terminus with the renewed foreshore lease contract agreement; provided, however, that in case of non-renewal, cancellation, or expiration of the foreshore lease contract, the private port facility or structure thus built on the foreshore and other government owned land utilized for such private port operation, shall become the property of the Authority, free from all liens and encumbrances, unless such foreshore area has been authorized to be reclaimed and the corresponding land has become officially titled to the private port owner concerned.

3.4 Port facilities with expired private port contracts may be leased out again to previous owners/operators.

3.5 The Certificate of Registration/Permit to Operate issued by the Authority shall authorize the holder to operate the private port for the duration specifically indicated in it.

## ARTICLE II

### Procedures

SECTION 4. *Criteria for Evaluation* — As a general rule, all applications for the development, construction and operation of private ports shall be granted subject to

compliance with this Order and other government laws and regulations.

However, applications for private commercial ports shall have a minimum investment of at least one (1) concrete berth with a minimum length of 65 meters and a draft of at least 5 meters at mean lower low water (mllw).

For reference purposes the application shall include a summary of the following:

4.1 Site/location/distance/accessibility of applied foreshore area from other ports/public utilities and infrastructures;

4.2 Project scope, description, and technical specifications;

4.3 General port lay-out plan and development plan;

4.4 Company profile.

#### SECTION 5. *Clearance to Develop a Private Port Facility* —

5.1 The private port investor or owner shall file his formal letter of intent, in triplicate copies, with the Port Management Office concerned where the foreshore area is located, together with the additional requirements as contained in Annex 1\* herein incorporated.

5.2 Upon receipt of completed documents, the Responsibility Centers (RCs) concerned shall act on the proposal as follows:

5.2.1 Port Management Office (PMO) — Evaluates, within two weeks from receipt of complete documents, and indorses proposal for approval, unless national security or safety is affected. Informs applicant on the PPA long range plans in the area. Issues to the applicant a Certification that the PMO interposes no objection to the proposed port development, for the latter's presentation to DENR in securing a foreshore lease contract. Elevates the proposal to PDO/HO with his recommendation.

5.2.2 Port District Office (PDO) — Validates, within two weeks from receipt, the initial findings and recommendations of the Port Manager, reflecting its concurrence to such proposal and endorses the same to the Office of the AGM Operations, Attention: Commercial Services Department. Retains copy.

5.2.3 Commercial Services Department (CSD) —

5.2.3.1 Processes within four weeks from receipt of complete documents, the private port proposal.

5.2.3.2 Notifies the applicant of denial of proposal if deemed prejudicial to national security or safety. Otherwise prepares an executive brief and submits to the AGM Operations for his recommendation to the General Manager for final approval and clearance to issue a Permit to Construct, subject to the provisions of this Order. If the facility applied for is a private commercial port, the application shall be submitted to the PPA Board for approval.

5.2.3.3 Notifies the applicant of the clearance to develop private port facility upon Board/General Manager's approval of the proposal.

SECTION 6. *PPA Requirement on Foreshore Lease Application* — The Authority's certification that the applied for area is in consonance with the PPA development plans shall be a pre-requisite to all foreshore lease applications with the Department of Environment and Natural Resources, whether initial or renewal. This certification may be issued at the level of the Port Manager without awaiting request from the said Department. The Port Management Offices and the Commercial Services Department shall be provided with all approved and updated port development plans.

SECTION 7. *Application for Permit to Construct* — Upon issuance by DENR of a foreshore lease contract/order award, the private port investor shall submit to the Authority through the Port District concerned all its construction and building plans together with its duly accomplished application for Permit to Construct. (Annex 2)\*

7.1 CSD shall inform the Port District manager of the board clearance to issue a Permit to Construct.

7.2 Within three weeks from receipt of documents as enumerated in Annex 3\* herein, the Port District Engineer shall evaluate the plans and documents for signature by the Port District Manager.

7.3 Upon signing of the permit to construct by the Port District Manager, his office shall issue the following:

7.3.1 Billing Notice advising proponent of the permit to construct approval, and to pay a Permit to Construct fee in accordance with the following graduated fix fees plus 10% VAT.

Project Cost    Permit to Construct Fee

Below P10 M    P10,000.00

P10 M & above	P10,000.00 plus .001 (1/10 of 1%) of the excess of 10 million but not to exceed P100,000.00
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7.3.2 Issue the Permit to Construct upon receipt of the Permit to Construct fee, copy furnished CSD.

SECTION 8. *Certificate of Registration/Permit to Operate New and Existing Private Pier Facility/ies* — Private port investors who have satisfactorily established new port infrastructures as well as port owners/operators who have developed and operated their facilities prior to the Authority's creation shall register with the PPA.

8.1 *Certificate of Registration and Permit to Operate New Private Port* — The Authority, thru the Commercial Services Department, shall issue, within three weeks, a Certificate of registration and Permit to Operate Private Port to the private