



DEC 04 1995

ADMINISTRATIVE ORDER
NUMBER 06 - 95

T O All District Managers
PMO Managers, Private Port Owners/
Operators and Others Concerned

SUBJECT **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 by 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 water marks, 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 for 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 propqsd 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 prerequisite 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 P10M	P10,000
P10M & above	P10,000 plus 001 (1/10 of 1%) of the excess of 10 million but not to exceed P100,000 00

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 port owner/operator who has submitted complete documentary requirements as stipulated in Annex 4 herein Only private ports with official registration with PPA shall be entitled to discounted port dues as provided for under PPA Memorandum Circular 07-94

8 2 Private Ports handling non-commercial and commercial cargoes

All private ports that handle both non-commercial and commercial cargoes shall be considered and registered as private commercial ports

8 3 Existing Private Ports with No Valid Operating Permit

All private ports known to be operating but not in possession of valid operating permits issued by the Authority shall be formally advised by the PMO to register with the Authority within thirty (30) days from receipt of formal notice. Failure of the private port owners to register after one month from final notice shall permanently disqualify them from availing themselves of private port privileges such as discounted port and cargo handling dues without prejudice to seeking legal remedies if called for. In this connection, the Port Manager concerned shall submit to CSD once every six (6) months a complete list of private ports duly registered and those subject for registration within his area of jurisdiction until such time that all private ports shall have been registered.

8 4 Imposition of 100% Port Charges on Unregistered Private Ports

In order to allow sufficient time for all unregistered private port operators/owners to complete documentary requirements for registration with the Authority, a moratorium on the imposition of 100% port charges on unregistered private port is hereby given in accordance with the following:

- 8 4 1 The Authority shall grant a moratorium on the imposition of the 100% vessel and cargo charges on existing private ports that are unregistered if such private port owners have previously enjoyed the reduced fees under the old PPA Port Tariff.
- 8 4 2 The moratorium shall commence from the effectivity of PPA MC 07-94 up to May 30, 1996.
- 8 4 3 Any amount actually paid in excess of the 50% charges under PPA MC No. 07-94 prior to the effectivity of this order shall be applied against future billings.

Section 9 - Cargo Handling Permit

Duly registered privately owned ports shall be allowed to undertake cargo handling operations, either on their own or by contract upon the issuance of its Certificate of Registration/Permit to Operate. They shall, submit to PPA thru the PMOs concerned the required periodic operational reports as shown in Annex 5.

Section 10 - Privilege Fee

For the privilege of having a permit to operate the private port, and in lieu of



the percentage share from cargo handling revenues which PPA gets, the private port owners/operators shall pay the PPA through the PMO concerned, the following fees

Private commercial ports	-	₱ 20,000 per annum
Private non-commercial ports	-	₱ 10,000 per annum
Marina	-	₱ 5,000 per annum
Private river ports	-	₱ 5,000 per annum

The privilege fee shall also extend to private port owners and operators whose cargoes are loaded/unloaded at anchorage provided such cargoes come from or are destined to their registered private port facilities

Section 11 - Request for Improvement

All requests for improvement/expansion/rehabilitation of existing private ports during the effectivity of its approved operating permit, except for annual preventive maintenance and repair purposes, shall be evaluated by the Engineering Services Division of the PDO concerned, and approved by the District Manager. A copy of the approval shall be furnished the PDD and CSD

Section 12 - Transfer of Operating Permits

The sale, transfer, conveyance, assignment of operating permits shall not be entered into by the private port owner/operator without first seeking prior written clearance from the Authority

**ARTICLE III - COURSES OF ACTION ON EXPIRED
FORESHORE LEASE/PERMIT**

The PMO concerned shall be responsible for monitoring all private ports operating within its jurisdiction. To this end, it shall inventory all existing facilities and notify private ports with foreshore leases expiring within the next one hundred eighty (180) days. Holders of expiring foreshore leases shall be advised to formalize their intention to renew occupancy of their respective premises, if interested. Otherwise, non application for renewal of the lease at least thirty (30) days from expiry date may be construed as an advice to effect turn-over of ownership rights to the Authority. The Port District Manager concerned is authorized to sign turn-over documents on behalf of the Authority. When a turnover is effected, the Port District Manager shall forward original copies of turnover documents to the AGM for Operations, Attention CSD

Section 13 - Ports with Expired Foreshore Lease/PPA Permit to Operate

13 1 Private port privileges on discounted port and cargo handling dues payments shall cease effective upon expiration of the ports' foreshore lease/PPA Certificate of Registration unless otherwise renewed

13 2 The privilege on discounted port and cargo handling dues payment shall, however, be extended for a maximum period of 6 months provided an application for the renewal of the foreshore lease and the PPA permit to operate shall be made prior to the effectivity of the lease expiration. This extension shall be allowed to give the applicant sufficient time to complete his' renewal documentation

13 3 Owners/operators of private ports with expired foreshore leases which can no longer be renewed (those with expired second renewals) may still avail themselves of discounted port and cargo handling dues payments provided the government portion of said port facilities are covered by a lease agreement with the Philippine Ports Authority

Section 14 - Application to Operate Private Port with Expired Foreshore Lease

All applications to operate private ports with expired foreshore lease shall be forwarded to the Authority for appropriate action

14 1 The Assistant General Manager for Operations, thru the Commercial Services Department shall be responsible for the overall assessment of all applications to operate private ports with expired foreshore lease permits/contracts

14 2 If found feasible, a corresponding lease agreement for the continuous utilization and operation of the private port including all improvements introduced therein shall be prepared for management approval

14 3 Rental payments shall be based on the prevailing market values of similar properties in the locality including other relevant economic factors

ARTICLE IV - MISCELLANEOUS PROVISIONS

Section 15 Penalty Clause

15 1 Violation of any of the provisions of this regulation shall subject the private port owner to the penalties enumerated under Section 43 of P D 857, as amended

15.2 Private port facilities constructed without prior clearance and valid permit to construct issued by the Authority but allowed PPA registration shall be subject to payment of penalty charges which shall not be less than P20,000 in addition to the payment of the permit to construct fee.

Section 16. Visitorial Powers.

The private port operator shall allow at anytime PPA officials and authorized PPA employees entry into the private port premises to observe and inspect port operations activities and facilities in the exercise of PPA supervisory authority.

Section 17. Repository of Documents.

A copy of all documents, communications, records pertaining to private ports shall be submitted by all departments concerned, to CSD which shall keep and maintain the same for future reference.

Section 18 - Repealing Clause.


All PPA orders, rules and regulations, policies, guidelines, memoranda or circulars inconsistent herewith are hereby repealed.

Section 19 - Separability Clause.

If any provision or section of this Order, or the application thereof to any person, corporate entity or circumstances is held invalid, the other provisions or sections of this Order, shall not be affected and shall continue to be in full force and effect.

Section 20 - Effectivity.

This Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation.


CARLOS L. AGUSTIN
General Manager

Published in the following newspapers:

1. Philippine Star)
2. Manila Standard)

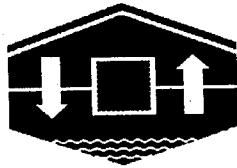
)December 7 & 14, 1995

Effectivity Date - Dec. 30, 1995

**CHECKLIST OF REQUIREMENTS FOR ISSUANCE OF
CLEARANCE TO DEVELOP A PRIVATE PORT FACILITY**

- 1 Three (3) copies of letter-proposal to develop a private port facility specifying the exact location of the foreshore area, area size in sq m , intended use/purpose of the facility proposed, contract term/duration, proposed structure to be put-up, estimated cost of improvements
- 2 A summary of the project scope and description
- 3 A copy of the company profile
- 4 Two (2) copies of vicinity map showing the location of the proposed private facility relative to the foreshore site reclaimed land or private lands and to the nearest government pier
- 5 DENR/PPA documentary requirements
 - 5 1 For private port facilities constructed on foreshore area, Two (2) copies of DENR issued foreshore lease contract or at least a certified received application for a foreshore lease permit together with a copy of PPA certificate that the applied for area is not a part of the PPA development plans
 - 5 2 For anchorage-based facilities such as mooring buoys, breasting dolphins, concrete jetties and similar berthing or mooring facilities, two (2) copies of PPA Port Manager certification that the structure will not pose hazard to navigation
 - 5 3 For private port facilities constructed along the river banks, two (2) certified true copies of land titles
 - 5 4 For private port facilities constructed on reclaimed lands, two (2) certified true copies of land titles
- 6 One (1) photocopy of SEC Registration Permit
- 7 One (1) photocopy of Articles of Incorporation and By-Laws
- 8 Environmental Clearance Certificate

(ALL DOCUMENTS TO BE FILED IN A FOLDER)



Republic of the Philippines
PHILIPPINE PORTS AUTHORITY
PORT DISTRICT OF _____

APPLICATION FOR PERMIT TO CONSTRUCT
(Per Presidential Decree No. 857)

Application Number : _____

Name of Applicant/Company : _____

Address of Applicant : _____

Location of Proposed Facility : _____

Description of Improvements/Facilities/Structures to be Constructed:

Total Estimated Cost of the Improvements/Facilities :
P _____

Subject to the conditions set forth at the back of this sheet.

RECOMMENDING APPROVAL :

APPROVED :

Manager, Engineering Services Division

Date : _____

PTC Fee O. R. No. : _____

Amount : _____

Date : _____

District Manager

CONDITIONS FOR PERMIT TO CONSTRUCT

1. Permittee is committed to start construction works within six (6) months from the date of approval of his Permit to Construct, otherwise the permit issued shall be rendered null and void.
2. The Authority shall be notified five (5) days before the start of the construction work.
3. Permittee shall allow authorized personnel of the Authority represented by a technical staff from the PMO having jurisdiction to monitor the construction of the facilities.
4. No alterations in the drawings or specifications shall be made by the owner without consent in writing by the Authority.
5. The Authority is not responsible for failure in the design and structural stability of the structures or from defects in construction.
6. For abandoned and unfinished construction, all structures which would obstruct navigation shall be removed at their expense.
7. All working areas shall be properly lighted and marked in order not to obstruct navigation.
8. Permittee shall submit an As-Built drawing upon completion of the project.
9. Permittee shall submit a completion report subject to final inspection by the Authority.

CONFORME :

Signature of Applicant/Agent

Name of Signatory

Designation

**Checklist of Requirements for
Issuance of Permit to Construct**

1. Three (3) copies of Application for PERMIT TO CONSTRUCT duly accomplished
2. Three (3) copies of Detailed Cost Estimates, Building Plans and other technical specifications, design computations.
3. Three (3) copies of working drawings duly signed by a licensed Civil Engineer with his PTR No., Date, TIN and dry seal.
4. One (1) copy of letter advise of Clearance to Develop a Private Pier Facility. (To be furnished by CSD)
5. One (1) copy of Approved Foreshore Lease Agreement/Order Award

(ALL DOCUMENTS TO BE FILED IN A FOLDER)

Checklist of Requirements for Issuance of
Certificate of Registration/Permit to
Operate Private Port Facilities

A. For newly constructed private ports

A.1 To be submitted by proponent:

- A.1.1 One (1) copy of accomplished Application for Registration form.
- A.1.2 Project Completion Report Form duly accomplished
- A.1.3 One (1) photocopy of Approved Foreshore Lease Contract (FLC)
- A.1.4 For private facilities along river bank, one (1) photocopy of Transfer Certificate of Title (TCT)

A.2 To be furnished CSD by PPA concerned units:

- A.2.1 One (1) photocopy of Approved Permit to Construct (PDO Concnered)
- A.2.2 Certification that applicant has no outstanding obligations with PPA. (concerned PMO)

B. For existing private ports with temporary certificates of registration/permit to operate private port facility

- 1. Letter-request for conversion of temporary registration/operating permit into a permanent one
- 2. One (1) photocopy of SEC Registration Permit
- 3. One (1) photocopy of Articles of Incorporation and By-Laws
- 4. Requirements A Nos. A.1.2 - A.1.4 and A.2.2 (above)

C. For existing ports without any valid permit

- 1. One (1) copy of Application for Registration form duly accomplished
- 2. As built plans
- 3. Requirements Nos. A.1.3, A.1.4, A.2.1 & A.2.2 (above)

(ALL DOCUMENTS TO BE FILED IN A FOLDER)

MONTHLY OPERATIONAL SUMMARY REPORT

_____, 19__

(NAME OF PRIVATE PORT)
(LOCATION)

CODE	PARTICULARS	THIS MONTH	LAST MONTH
A1	Domestic Vessel Calls		
A2	Foreign Vessel Calls		
A3	Domestic Vessel GRT		
A4	Foreign Vessel GRT		
A5	Berth Occupancy Rate (%)		
A6	Ave. Turnaround Time-Domestic		
A7	Ave. Turnaround Time-Foreign		
B1	Total Domestic Conventional Cargo-Inward		
B2	Total Domestic Conventional Cargo-Outward		
B3	Total Domestic Containerized Cargo-Inward		
B4	Total Domestic Containerized Cargo-Outward		
B5	Total Import Bulk Cargo		
B6	Total Import Breakbulk Cargo		
B7	Total Import Containerized Cargo		
B8	Total Export Bulk Cargo		
B9	Total Export Breakbulk Cargo		
B10	Total Export Containerized Cargo		
C1	Total Domestic TEU - Inward		
C2	Total Domestic TEU - Outward		
C3	Total Foreign TEU - Inward		
C4	Total Foreign TEU - Outward		
D1	Total Passenger - Disembarked		
D2	Total Passenger - Embarked		
E1	Tons/Gross Gang Hour (Conventional)		
E2	Tons/Gross Gang Hour (Containerized)		
F1	Number of Cargo Handling Operator		
F2	Number of Cargo Handling Personnel/Laborers		

Prepared by: _____

Noted by: _____