

**DA Administrative Order
No. 37
September 30, 1999**

SUBJECT : Revised Guidelines on the Certification of Eligibility for Reclassification of Agricultural Lands and Providing Mechanisms for the Implementation thereof.

I. GOVERNING PRINCIPLES

The reclassification of private agricultural land to non-agricultural uses shall be guided by the Philippine Constitution, Article II, Section 21 and Article XII, Section 1; Republic Act 6657, Section 2; Executive Order (EO) 292, Series of 1987; and the Department of Agriculture's Charter on Agricultural Land.

II. LEGAL BASIS

1. Presidential Memorandum dated April 16, 1999 providing that DAR Administrative Order No. 1 Series of 1999 shall serve as the primary guideline on the conversion of agricultural lands to non-agricultural which require the DA to classify/reclassify the land.
2. DA A.O. No. 6 Series of 1998 Rule 9.3 (Implementing Rules and Regulations of the AFMA) providing that the conversion of use from agricultural to non-agricultural of lands covered under the Strategic Agriculture and Fishery Development Zone (SAFDZ) as set forth in the AO establishing the SAFDZ shall be limited per Sections 9 and 12, in addition to any existing rules, regulations and procedures regarding applications for land use conversion and the protection of watershed areas, including RA 6657, Presidential A.O. 20 and 363, and Section 20 of RA 7160.

3. DAR A.O. No. 1 Series of 1999 requiring certification from the Department of Agriculture stating, among others, the classification of the property under the NPAAAD and the SAFDZ.
4. EO 292 also known as the Revised Administrative Code of 1987, in its Title IV, Chapter I, Section 2, stating that the Department of Agriculture is the agency responsible for the promotion of agricultural development by providing the policy framework, public investment, and support services needed for domestic and export-oriented business enterprises.

The above Code also empowers the DA to promulgate and enforce all laws, rules and regulations governing the conservation of proper utilization of agricultural and forestry resources.

5. RA 7881 as it amends Sections 3-B, 10 and 11 of RA 6657 pertaining to the: (1) definition of agricultural activity; (2) exempting prawn farms and fishponds from the coverage of the CARL; and (3) including 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 CARP after a ten-year deferment period, respectively.

III DEFINITION OF TERMS

- a) **Agricultural Lands** as amended by Section 3-B of RA No. 7881 refer to lands devoted to or suitable for the cultivation of the soil, planting of crops, growing of trees including the harvesting of such farm products, and other farm activities and practices performed in conjunction with such farming operations by persons whether natural or juridical, and not classified by law as mineral land, forest or timber, or national park nor reclassified as residential, commercial, industrial or other non-agricultural uses before June 15, 1988.

- b) **Conversion Moratorium** refers to the policy enunciated in RA 8435 which prohibits the reclassification of irrigated lands, irrigable lands already covered by irrigation projects with firm funding commitments, and lands with existing or having the potential for growing high-value crops so delineated and included within the Strategic Agriculture and Fishery Development Zone (SAFDZ) for the period starting 10 February 1998 to 9 February 2003.
- c) **Illegal Conversion** is the conversion by any landowner of his agricultural land into any non-agricultural use with intent to avoid the application of RA 6657 to his landholding and to dispose his tenant farmers of the land tilled by them; or the change of the nature of lands outside urban centers and city limits either in whole or in part after the effectivity of RA 6657, as provided in Sec. 73 (c) and (e), respectively, of the said Act.
- d) **Irrigable Lands** refer to land which display marked characteristics justifying the operation of an irrigation system.
- e) **Irrigated Lands** refers to lands serviced by natural irrigation or irrigation facilities. These include lands where water is not readily available as existing irrigation facilities need rehabilitation or upgrading or where irrigation water is not available year-round.
- f) **Land Use Conversion** refers to the act or process of changing the current use of a piece of agricultural land into some other use as approved by the DAR.
- g) **Network of Protected Areas for Agricultural and Agro-industrial Development (NPAAAD)** refers to agricultural areas identified by the Department of Agriculture through the Bureau of Soils and Water Management in coordination with the National Mapping and Resource Information Authority in order to ensure the efficient utilization of land for agriculture and agro-industrial development and promote sustainable growth. The NPAAAD covers all irrigated areas, all irrigable lands already covered by

irrigation projects with firm funding commitments; all alluvial plains highly suitable for agriculture, whether irrigated or not; agro-industrial croplands or land presently planted for industrial crops that support the viability of existing agricultural infrastructure and agro-based enterprises; highland or areas located at an elevation of five hundred (500) meters or above and have the potential for growing semi-temperate and high value crops; all agricultural lands that are ecologically fragile, and conversion of which will result in serious environmental degradation; mangrove areas and fish sanctuaries; all fishery areas as defined pursuant to the Fisheries Code of 1998.

- h) Premature Conversion of Agricultural Land** is the undertaking of any development activities whose results will modify or alter the physical characteristics of the Agricultural lands to render them suitable for non-agricultural purposes without any approved Order of Conversion from the DAR (DAR A.O. 7 s. 1997).
- i) Private Agricultural Lands** refers to agricultural lands as defined herein and owned by natural or judicial persons or by the government in its proprietary capacity.
- j) Reclassification of Agricultural Lands** refers to the act of specifying how agricultural lands shall be utilized for non-agricultural uses such as residential, industrial, commercial, as embodied in the land use plan, subject to the requirements and procedure for land use reclassification. It also includes the reversion of non-agricultural lands to agricultural use.
- k) Strategic Agriculture and Fisheries Development Zone (SAFDZ)** refer to areas within the NPAAAD identified for production, agro-processing and marketing activities to help develop and modernize, with the support of the government, the agriculture and fisheries sectors in an environmentally and socio-culturally sound manner.

- l) **Unauthorized Conversion** is the act of changing the current use of the land from agricultural (e.g. riceland) to another agriculture use, the effect of which is to exempt the land from CARP coverage (e.g. livestock) without an order of conversion from DAR, or changing the use of the land other than that allowed under the order of conversion issued by DAR.

IV COVERAGE

- a) **Applicability of Rules** - This guideline shall apply to the issuance of DA Certification consistent with DAR A.O. No. 1 series of 1999 on land conversion which include the following areas:
 - (1) Those to be converted to residential, commercial, industrial, institution and other non-agricultural purposes;
 - (2) Those to be converted to non-agricultural activity such as livestock, poultry, and fishpond, the effect of which is to exempt the land from CARP coverage;
 - (3) Those to be converted to non-agricultural use other than that previously authorized; and
 - (4) Those reclassified to residential, commercial, industrial, or other non-agricultural uses on or after the effectivity of RA 6657 on June 15, 1988 pursuant to Section 20 of R.A. 7160 and other pertinent laws and regulations, and are to be converted to such uses. However, for those reclassified prior to June 15, 1988, the guidelines on securing exception clearance shall apply.

Conversion is allowed if there is no Notice of CARP Coverage. For this purpose, the DAR will provide the DA with a list of areas with Notice of Coverage except those with Special Permits.

b) Lands with NPAAAD

- (1) irrigated area
- (2) irrigable lands already covered by irrigation projects with firm funding commitment
- (3) Alluvial plain highly suitable for agriculture, whether irrigated or not
- (4) Industrial cropland (presently planted to industrial crops)
- (5) Arable highland (located at an elevation of 500 meters or above and have the potential for growing semi-temperate and high-value crops)
- (6) Agricultural land and that are ecologically fragile
- (7) Fishery areas as defined pursuant to the Fisheries Code of 1998

c) Land within SAFDZs - In accordance with Section 9 of RA 8435, the following rules shall govern reclassification of lands within SAFDZs:

- (1) All irrigated lands, irrigable lands already covered by irrigation projects with firm funding commitments, and lands with existing or having the potential for growing high-value crops included within the SAFDZs shall be subject to a conversion moratorium for a period of five (5) years from 10 February 1998 to 9 February 2003.
- (2) During the effectivity of the moratorium, reclassification may be allowed with respect to only five percent (5%) of lands stated in C(1) above and upon compliance with existing laws, rules and regulations.
- (3) The maximum of five percent (5%) equivalent to the total area of land eligible for conversion to non-agricultural use shall be jointly determined by the DA and the DAR, upon the recommendation of the Regional and National SAFDZ Committees pursuant to

Rule 9.5.2 DA Administrative Order NO. 6 Series of 1998.

- (4) After the expiration of the conversion moratorium, conversion may be allowed, if at all, on a case to case basis, subject to existing laws and regulations on land use conversion.

V. CRITERIA FOR CONVERSION - The following criteria shall guide the resolution of applications for conversion:

Reclassification of land within SAFDZs, as provided in Rule 9.5.2 of DA Administrative Order No. 6, Series of 1998, shall take into account the following factors:

- (1) The reclassification of land use is consistent with the natural expansion of the municipality or locality, as contained in the approved physical framework and land use plan;
- (2) The area to be reclassified in use is not the only remaining food production area of the community;
- (3) The land use reclassification shall not hamper the availability of irrigation or the productivity of nearby farmlands;
- (4) Areas with lower productivity will be accorded priority for land use conversion;
- (5) When the proposed project is supportive to agro-industrial development; and will generate alternative livelihood opportunities for the affected community.

VI WHO MAY APPLY FOR RECLASSIFICATION - The following persons may apply for reclassification:

- (a) Owners of private agricultural lands or other persons duly authorized by the landowner; and

- (b) Government agencies, including government-owned or controlled corporations, and local government units, which own agricultural land as their patrimonial property.

VII DOCUMENTARY REQUIREMENT - The documents required of applications for reclassification are as follows:

- (1) Notarized Application for Reclassification (Land Use Reclassification (LUR) Form No. 1).
- (2) Special Power of Attorney, if the petitioner is other than the owner of the land or Board Resolution if the owner is a corporation.
- (3) True copy of the Original Certificate of Title (OTC) or Transfer Certificate of Title (TCT) certified by the Register or Deeds not later than thirty (30) days prior to filing. However, if at the time of application, the landholding is an untitled agricultural land, the following shall be required in lieu of the copy of title:
 - (a) DENR Community Environment and Natural Resources Officer (CENRO) Certification that the landholding has been classified as alienable and disposable; and
 - (b) Certification from DENR CENRO (for administrative confirmation of imperfect title) or the Clerk of Court of regular courts (for judicial confirmation of imperfect title) that:
 - 1. the titling process/proceeding has commenced; and
 - 2. there are no adverse claimants.
- (4) One (1) copy each of sketch map, vicinity map and lot plan showing TCT Nos., Lot No., area per TCT and area applied for conversion duly reference points for the identification of the subject property applied for reclassification.

- (5) Recent 5R photographs of the property to be duly certified as such by a member of DA-RLUTWG after the field investigation.

VIII PROCEDURES

- 1.0 Applicant presents duly accomplished DAR LUC 1 together with blank LUR Form 3 (DA Certification) and supporting document as per checklist. Submit both documents to DA-RFU Regional Director through the expanded RLTWG (RTeCLUM).
- 2.0 RTeCLUM receiving officer reviews documents for completeness; if incomplete, advise applicant to submit lacking documents.
- 3.0 If the land applied for has a Notice of CARP coverage and/or have premature conversion, the application shall be returned.
- 4.0 If complete, RTeCLUM conducts field investigation to determine the characteristics of areas applied for reclassification (use LUR Form 3A).
- 5.0 Upon completion of the field investigation, RTeCLUM forwards Land Use Reclassification Folio (LURF) to DA Regional Director.
- 6.0 DA-Regional Director forwards LURF to the TeCLUM through its Secretariat.
- 7.0 The TeCLUM, after due deliberation/ocular inspection, submits its findings and recommendation to the Office of the Secretary (LUR Form 3B).
- 8.0 Office of the Secretary acts on application and sends to TeCLUM Secretariat the approved application (LUR Form 3C).
- 9.0 Secretariat sends original of Certificate directly to applicant/authorized representative or through the DA-RFU concerned retaining a certified photocopy of the certificate for record/reference purposes. Another certified copy is retained by the Records Section of the BSWM.

IX CERTIFICATION FEES

The DA-RFUs, through its cashiering unit, shall collect processing and certification fees per application at the following rates and to be paid at the time of application:

- a. A fix fee in the amount of P 2,000.00 per application, P 250.00 of which shall be remitted to the NIA regional office.
- b. A variable fee of P100.00 per hectare to be remitted to the Philippine Coconut Authority (PCA) provincial office.

The rates for the attached agencies are as provided for by their Board of Directors.

X TECHNICAL COMMITTEES:

To provide efficient and fast processing of application for land use conversions, there is hereby created a Regional Technical Committee for Land Use Matters (RTeCLUM) to be composed of the following:

CHAIRMAN:
DA-RFU Regional Director

MEMBERS: Regular and alternate representatives from DA attached agencies as follows:

- Philippine Coconut Authority (PCA)
- Sugar Regulatory Administration (SRA)
- National Tobacco Administration (NTA)
- Fiber Industry Development Authority (FIDA)
- Bureau of Fisheries and Aquatic Resources (BFAR)
- National Irrigation Administration (NIA)
- BSWM Soil and Water Access Team (SWAT)
Coordinator

The RTeCLUM shall conduct a joint field inspection to provide the land characteristics for LUR Form No. 3a.

XI APPROVING AUTHORITY

The Secretary of the DA or his duly authorized official(s) have the sole authority to issue Certificates of Eligibility for Reclassification of Agricultural Lands.

XII MOTION FOR RECONSIDERATION

- (1) The applicant or the protestant may file a motion for consideration of a certification within fifteen (15) days from receipt of a copy thereof,
- (2) The motion for reconsideration shall be resolved by the DA Secretary or his duly authorized official.
- (3) The DA action on the motion for consideration will be final.

XIII REPEALING CLAUSE

This Administrative Order repeals all previous issuances inconsistent with this Order.

XIV EFFECTIVITY

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

Done this 30th day of September 1999, Quezon City, Metro
Manila, Philippines.

(Sgd.) EDUARDO J. ANGARA
Secretary

By the President:

(Sgd.) RONALDO B. ZAMORA
Executive Secretary