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ADOPTION OF STRATEGIC AGRICULTURE AND FISHERY DEVELOPMENT ZONES (SAFDZ) AND THE NETWORK OF PROTECTED AREAS FOR AGRICULTURE AND AGRO-INDUSTRIAL DEVELOPMENT (NPAAAD) AS THE PRIME ...

DOA ADMINISTRATIVE ORDER NO. 38, S. 1999, October 04, 1999

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ARTICLE I
DECLARATION OF POLICY

It is the policy of the state to ensure that all sectors of the economy and all regions of the country shall be given optimum opportunity to develop through the rational and sustainable use of resources peculiar to each area in order to maximize agricultural productivity, promote efficiency and equity and accelerate the modernization of agriculture and fishery sectors of the country.

By virtue of the implementation of RA 8435, otherwise known as the Agriculture and Fishery Modernization Act (AFMA), the State fully recognizes all areas identified and included in the NPAAAD as the country's prime resource endowments for agriculture and fishery modernization. The prime lands judiciously selected from the NPAAAD, being referred to by this act as the Strategic Agriculture and Fishery Development Zones (SAFDZ), and which is covered by the resolution for its adoption by the Sangguniang Bayan, is officially recognized as the Local Government Units' (LGUS) individual and collective initiatives and their legal commitments to support the national strategic program for agriculture and fishery modernization.

The SAFDZ is the designated food basket of the country and serves as the integrating framework for the planning and allocation of national financial and economic resources and priority investments for the implementation of convergence programs for national food security and poverty alleviation.

ARTICLE II
LEGAL MANDATE
Republic Act 8435, otherwise known as the Agriculture and Fishery Modernization Act of 1997, under Section 9 mandates the Department of Agriculture (DA) to include without prejudice the development of the identified economic zones and free ports, to establish and delineate the Strategic Agriculture and Fishery Development Zones (SAFDZ) based on sound resource accounting and in full consultation with the Department of Agrarian Reform (DAR), Department of Trade and Industry (DTI), Department of Environment and Natural Resources (DENR), Department of Science and Technology (DOST), Housing and Land Use Regulatory Board (HLURB), concerned provincial and municipal LGUS, the organized farmers and fisherfolk groups, the private sector and affected communities.

ARTICLE III
DEFINITION OF TERMS

- Agrarian Reform Community refers to a barangay at the minimum or a cluster of contiguous barangays where there is a critical mass of farmers or farm workers and which features the main thrust of agrarian development:

land tenure improvement and effective delivery of support services.

- Agriculture and Fishery Modernization Plan (AFMP) refers to the medium and long-term comprehensive plan of the agriculture and fishery sectors which focuses on five (5) major concerns: food security; poverty alleviation and social equity; income enhancement and profitability, especially for farmers and fisherfolks; global competitiveness; and sustainability.

- Agriculture Sector refers to the sector engaged in the cultivation of the soil, planting of crops, growing of fruit trees, raising of livestock, poultry, or fish, including the harvesting and marketing of such farm products, and other farm activities and practices.

- Agricultural Land Use Conversion refers to the process of changing the current use of a piece of agricultural land into some other use.

- Agricultural Lands refers to lands devoted to or suitable for the cultivation of the soil, planting of crops, growing of trees, raising of livestock, poultry, fish or aquaculture production, 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 lard, or national park, residential land, commercial land, or industrial land.

- Development Convergence Areas refers to development planning areas characterized by the convergence of production, marketing and processing services and facilities, and are composed of clusters of contiguous agricultural and fishery areas for adjoining municipalities and provinces that can be used to catalyze the modernization of agriculture and fishery sectors.

- Fishery Sector refers to the sector engaged in the production, growing, harvesting, processing, marketing, developing, conserving, and managing of aquatic resources and fisheries areas.

- Integrated Development Plan (IDP) refers to the modernization plan for the agriculture and fishery sectors required in each SAFDZ that are included in the development convergence area consisting of production, processing, investment, marketing, human resources and environmental protection.

- Irrigable Lands refers to lands which display marked characteristics justifying the operation of an irrigation system.

- 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.

- Land Use Plan refers to a document embodying a set of policies accompanied by maps and similar illustrations which represent the community-desired pattern of population distribution and a proposal for the future allocation of land to the various land-using activities, in accordance with the social and economic objectives of the people. It identifies the location, character and extent of the area’s land resources to be used for different purposes and includes the process and the criteria employed In the determination of the land use.

- Land Use refers to the manner of utilizing the land, including its allocation, development and management.

- Marginal Lands refers to portions of the alienable and disposable lands that are excluded from the delineation and identification of SAFDZ and NPAAAD because their natural limitations and inherently low productivity cannot be economically improved or corrected by the modern technologies and whose continued use for agriculture and fishery production will result in serious land and environmental degradation.

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- Model Farms refers to efficiently managed contiguous areas of agricultural land or fisheries characterized by diversified cropping and integrated farming or fishery systems, which shall serve as demonstration centers for agriculture and fishery technologies. The DA in coordination with the LGUs and appropriate government agencies may designate agrarian reform communities (ARCs) and other areas within the SAFDZ suitable for economic scale production, which will serve as model farms. Farmer-landowners whose lands are located within these designated areas shall be given the option to enter into a management agreement with corporate entities with proven competence in farm operations and management, high-end quality production and productivity through the use of up-to-date technology and collateral resources such as skilled manpower, adequate capital and credit, and access to markets, consistent with existing laws.

- Network of Protected Areas for Agricultural and Agro-Industrial Development (NPAAAD) refers to agricultural areas identified by the DA through the Bureau of Soils and Water Management (BSWM) in coordination with the National Mapping and Resource Information Authority (NAMRIA) 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 plain land highly suitable for agriculture whether irrigated or not; agro-industrial croplands or lands presently planted to industrial crops that support the viability of existing agricultural infrastructure and agro-based enterprises, highlands 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, the conversion of which will result in serious environmental degradation, and mangrove areas and fish sanctuaries.

- Premature Conversion of Agricultural Land refers to the undertaking of any development activity, the results of which modify or alter the physical characteristics of the agricultural lands to render them suitable for non-agricultural purposes without an approved order of conversion from the DAR.

- Strategic Agriculture and Fishery Development Zone (SAFDZ) refers to the areas within the NPAAAD identified for production, agro-processing and marketing activities to help develop and modernize, with the support of government, the agriculture and fisheries sectors in an environmentally and socio-culturally sound manner.

ARTICLE IV
APPROVED AREAS AND COVERAGE OF THE SAFDZ AND NPAAAD
All areas within the NPAAAD and those covered by the approved resolution for adoption of SAFDZ by the Sangguniang Bayan are hereby officially accepted and designated as areas for investment and development for relevant programs and projects covered by AFMA.

SECTION 1. The Official List. The completed and verified list of municipalities comprising the NPAAAD as well as barangays in each municipality with their respective resolutions for SAFDZ adoption are hereby referred in this Order as Official List of SAFDZ and Official List of NPAAAD. The corresponding SAFDZ and NPAAAD maps reviewed and approved by the Office of the Governor, Office of the Municipal/City Mayor, DA-RFU, BSWM and NAMRIA shall be a part of the Order and are herein referred to as the Official SAFDZ and NPAAAD Maps. All municipalities/cities and provinces as well as concerned Departments involved in the Convergence Programs on Food Security and Poverty Alleviation shall be furnished a copy of officially published SAFDZ and NPAAAD maps. Finalization of these maps shall be done by the BSWM in coordination with NAMRIA.

SECTION 2. Submission of Sangguniang Bayan/Panlungsod Resolution. The municipalities/cities, which are unable to submit their Resolution adopting the SAFDZ at the time of issuance of this Order, are hereby given six (6) months from the effectivity of this Order. The implementation of the SAFDZ programs and projects shall be

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contingent to their final submission of the required resolution and the corresponding SAFDZ Integrated Development Plan, where applicable. Areas that are not covered by the convergence zone and SAFDZ shall become part of the NPAAAD.

ARTICLE V
PLAN FOR ACTIONS

SECTION 1. Establishment of the Convergence Areas for the SAFDZ and the Preparation of IDP and AFMP. In order to ensure focus and efficiency in the use of scarce development/investment resources for agriculture and fishery modernization, the Regional SAFDZ Committee, in coordination with the concerned LGUs/Municipalities, shall identify and establish the areas of convergence for the various adjoining and contiguous SAFDZ areas with similar commodity and land use capability. These zones of convergence for planning of SAFDZ are referred to as the Development Convergence Areas.

The municipalities/cities, whose SAFDZ are component parts of the convergence areas, shall jointly prepare the IDP. Each municipality/city in the convergence areas shall prepare their own AFMP, incorporating the IDP of their respective SAFDZ. Aggregation of the Development Convergence Areas shall consider multi-area projects and programs that cross administrative and political as well as Watershed boundaries. However, municipalities whose SAFDZ is not a part of the Convergence Areas, shall prepare the AFMP, without the IDP, considering the SAFDZ as “municipal special food basket” that will support their local food security needs.

The AFMP shall be prepared for each municipality. The municipal/city AFMP shall be aggregated to provincial, regional, and national levels.

The IDP shall be aggregated to the regional level and submitted to the DA Planning Service (PS) for incorporation to the national AFMP. The Regional AFMP and IDP must consider the Regional Physical Framework Plan prepared by NEDA to ensure proper complementation of development efforts in the region.

SECTION 2. Selection of Priority Barangays. In view of limited financial resources as well as the need for a focused investments that will result in the highest benefits, the LGUs shall be enjoined to select and prioritize the Barangays earlier entitled and included in the list of SAFDZs. These locations shall have the attributes that will allow a successful promotion and implementation of investments for agriculture and fishery modernization and shall have strategic value and impact for improved and sustained environment for agro-industrialization.

2.1. The Governor shall coordinate with the Municipal/City Mayors in the selection of five (5) to ten (10) priority barangays to be included in the Development Convergence Areas and in the preparation of IDP according to importance, strategic location and comparative advantage.

2.2. The selected priority barangays shall be submitted by the concerned Provincial Governor to Regional SAFDZ Committees for evaluation and endorsement to the National SAFDZ Committee for consideration in the national modernization priority plans and programs.

SECTION 3. Planning for the Marginal Lands. Marginal agricultural and fishery areas within the Alienable and Disposable lands that are not included in the NPAAAD and SAFDZ shall be set aside, evaluated, and planned for off-farm and non-farm livelihood activities, other viable land uses, value-adding agri-related infrastructures, and environmentally sound and acceptable non-agricultural uses. The Marginal Land Use Plan shall be formulated through an inter-agency effort to be chaired by DA and participated by members composed of NAFC, FPA, BFAR, PFDA, NEDA, DTI, DOST, DAR, DILG, DENR, DTI, DOT, NAMRIA, HLURB, NGOs, LGUs, representative of the affected farmers, private sectors and other stakeholders. The economic use of these areas shall be prepared in a manner that it will enhance, rather than displace the existing marginalized farmers, their

economic and social opportunities. The plan will include formulation and implementation of programs and projects for basic needs/rural non-farm employment and provision of safety nets for small and subsistence farmers cultivating these marginal lands.

ARTICLE VI
STRATEGIC AGRICULTURE AND FISHERY DEVELOPMENT ZONE COMMITTEES
SECTION 1. The National SAFDZ Committee. The inter-agency and multi-sectoral National SAFDZ Committee shall be reorganized to be composed of representatives from the DA-Planning Service, DA Bureaus and attached agencies, DAR, DENR, DILG, NEDA, DPWH, DOST, DOT, DTI, HLURB, LBP, NAMRIA, DOTC, League of Municipal Mayors and Provincial Governors, other government agencies, private sector, NGOs, POs, farmers/fisherfolks, and other relevant institutions and stakeholders, as may be required. The Committee shall be Chaired by the DA Undersecretary for Operations and Co-Chaired by the BSWM Director, with the PS and BSWM providing Secretariat Support.

SECTION 2. The Regional SAFDZ Committee. The National SAFDZ Committee shall be replicated in all regions in the country. The Regional SAFDZ Committee shall be chaired by the Regional Director of the DA-RFU. The members shall be composed of same Departments and Offices included in National SAFDZ Committee that are represented in the Region.

SECTION 3. Duties and Responsibilities of the SAFDZ Committees. The SAFDZ Committees are reorganized to assist the Department in coordinating the implementation of the various provisions of the AFMA concerning the SAFDZ and NPAAAD. It shall assist the Department in the coordination of the monitoring of land use changes within the critical lands in the SAFDZ as well as prescribe policy recommendations to properly optimize the prime lands in the country. The other functions of the Committees are as follows:

3.1 Provide technical assistance in the preparation and the implementation of the AFMP and IDP;

3.2 Review and recommend the SAFDZ IDP and corresponding investment programs;

3.3 Assist the LGU and DA in the integration of SAFDZ with the Comprehensive Land Use Plan and corresponding Zoning Ordinance;

3.4 Monitor and evaluate the implementation of the land use reclassification and conversion of lands within the SAFDZ;

3.5 Review and formulate strategies for the development and implementation of the SAFDZ Convergence areas; and

3.6 Recommend appropriate organizational mechanisms that will handle the application, evaluation, and approval of reclassification of lands within the SAFDZs.

SECTION 4. Preparation of Supplemental Guidelines. The National SAFDZ Committee shall assist the DA in the formulation of supplemental guidelines for the implementation of this Administrative Order within one (1) month upon the effectivity of this Administrative Order. The guidelines will likewise identify specific functions for the National and Regional SAFDZ Committees.

SECTION 5. Budgetary Requirement. Budgetary requirement for the operation of the SAFDZ Committees shall be provided for and sourced from the budget of the DA.

ARTICLE VII
MONITORING AND EVALUATION OF LAND USE CHANGES OF THE SAFDZ AND THE NPAAAD
SECTION 1. Monitoring and Evaluation of Land Use Changes. All changes in the critical land uses in the

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SAFDZ, particularly the irrigated lands, shall be monitored and reported by the municipal agricultural officer (MAO) to the Municipal Mayor. The concerned citizen in the locality where such changes occurred may be deputized to report to the Provincial Land Use Technical Committee (PLUTC) and to the Regional SAFDZ Committee copy furnished the concerned Municipal Mayor. The Mayor shall, in turn, evaluate and endorse the information with proper recommendation to the Regional SAFDZ Committee for further evaluation and endorsement to the National SAFDZ Committee for appropriate action.

SECTION 2. Applicability of Section 20 of the Local Government Code (LGC) and Section 9 of AFMA. Section 20 of LGC provides reclassification limit for land use conversion of agricultural lands, (includes both marginal and prime lands), while the Section 9 of AFMA is restricted on the conversion of specific land use within the approved SAFDZ. Under AFMA, the reduction of reclassification and conversion limit to five (5) percent within the moratorium period of five (5) years is confined to irrigated rice, irrigable lands with firm funding commitment, and on lands currently used or have potential for growing high value crops. Given the specific conditions under Section 9 of AFMA, SAFDZ lands that are not devoted to restricted land use enumerated above, lands within the NPAAAD, and agricultural lands excluded from the NPAAAD shall be covered by Section 20 of the Local Government Code.

ARTICLE VIII
PENAL PROVISIONS

Any person or juridical entity who knowingly or deliberately causes any irrigated agricultural lands seven (7) hectares or larger, whether contiguous or not within the protected areas for agricultural development, as specified under Section 8 in relation to Section 9 of AFMA, to lie idle and unproductive for a period exceeding one (1) year, unless due to force majeure, shall be subject to an idle land tax of Three Thousand Pesos (P3,000.00) per hectare per year. In addition, the violator shall be required to put back such lands to productive agricultural use. Should the continued agricultural inactivity, unless due to force majeure, exceed a period of two (2) years, the land shall be subject to escheat proceedings.

Any person found guilty of premature or illegal conversion shall be penalized with imprisonment of two (2) to six (8) years, or a fine equivalent to 100% of the government's investment cost, or both, at the discretion of the court, and an accessory penalty of forfeiture of the land and any improvement thereon.

In addition, the DAR may impose the following penalties after determining, in an administrative proceeding, the violation of RA 8435 has been committed:

- Cancellation or withdrawal of the authorization for land conversion; and

- Blacklisting or automatic disapproval of pending and subsequent conversion applications that the individual, group or entity may file with the DAR.

ARTICLE IX
APPEAL ON ACTIONS

The affected party, concerned individual, group or entity my appeal on any action related to the implementation of this Order to the National SAFDZ Committee through the Regional SAFDZ Committee. The National Committee shall make an evaluation and recommendation to the DA Secretary who shall make the final action on the appeal.

ARTICLE X
SEPARABILITY CLAUSE

In the event that any provision of this Administrative Order is declared unconstitutional or null and void, the validity of the other provisions shall not be affected by such declaration.

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ARTICLE XI
EFFECTIVITY AND TRANSITORY PROVISIONS

This Administrative Order takes effect 15 days after the completion of its publication in the Official Gazette or in a newspaper of general circulation. The Records Officer of this Department is hereby directed to file three (3) certified copies hereof with the University of the Philippines Law Center pursuant to Section 3 (1), Chapter 2, Book VII of the Administrative Code of 1987.

Adopted: 04 Oct. 1999

(SGD.) EDGARDO J. ANGARA
Secretary

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