

GUIDELINES ON THE ISSUANCE OF CERTIFICATION FOR LAND USE RECLASSIFICATION

Administrative Order No. 01, s. 2017, February 13, 2017

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I. LEGAL BASES

The process of reclassifying private agricultural lands to non-agricultural lands is governed by Section 21, Article II and Section I, Article XII of the Philippine Constitution, Section 2 of E.O. 45, Series of 2001, Title IV, Chapter I, Section 2 of E.O. 292, Series of 1987 and other pertinent provisions of R.A. 6657 of 1988, R.A. 8435 of 1997 and the DA's Charter of Agricultural Lands.

II. GUIDING PRINCIPLES

WHEREAS, DAR[1] AO No. 01, Series of 1999 pursuant to Presidential Memorandum dated April 16, 1999 shall serve as the primary guide for land use conversion from agricultural use to non-agricultural use with DA's land reclassification certification as a requirement.

WHEREAS, DA[2] AO. No. 6, Series of 1998 pursuant to Rule 9.3 of the IRR of RA 8435[3] provides that the land use conversion from agricultural to non-agricultural lands covered under the SAFDZ[4] shall be limited as provided under Sections 9 and 12 thereof in addition to any existing rules, regulations and procedures regarding applications for land use conversion and protection of watershed areas, including R.A. 6657, Presidential A.O. Nos. 20 S. 1992 and 363 S. 1997, and Section 20 of R.A. 7160.

WHEREAS, RA 8435 emphasizes the importance of food security by declaring as policy of the state to promote the same, including sufficiency in our staple food, namely rice and white corn. The production of these staples shall be optimized to meet our local consumption and shall be given adequate support by the state.

WHEREAS, DAR A.O. No. 1, series of 2002 requires DA certification on the classification of a property applied for land use conversion as whether or not it is within NPAAAD[5] and SAFDZ.

WHEREAS, Section 2, Chapter 1, Title IV, E.O. 292[6] states that the DA is 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. This Code also empowers DA to promulgate and enforce all laws, rules and regulations governing land use conversion and proper utilization of agricultural lands and forestry resources.

WHEREAS, RA 7881[7] amends Section 3-B, 10 and 11 of RA 6657 pertaining to the: (1) definition of agricultural activity (2) exemption of prawn farms and fishponds from the coverage of the Comprehensive Agrarian Reform Law (CARL) and (3) inclusion of commercial livestock, poultry, and swine raising, and

aquaculture including fishponds and prawn farms in the classification of commercial farms that are due for coverage under the Comprehensive Agrarian Reform Program (CARP) after a ten-year deferment period, respectively.

III. DEFINITION OF TERMS

1. Agricultural Lands refer 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 farming operations by persons whether natural or juridical and not classified by the law as mineral land, forest land, residential land, commercial land or industrial land.

2. Comprehensive Land Use Plan (CLUP) refers to a document accompanied by maps and similar illustrations, which represent the community-desired pattern of population distribution and proposal for the future allocation of land for various land use activities. It identifies the allocation, 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 land's use.

3. Irrigable Lands/Areas defined as land suitable for the conduct of agricultural activities which require irrigation and display physical features justifying the operation of an irrigation system.[8]

3.a Project Areas refer to those within irrigable lands/areas comprising the intended or design serviceable or irrigation areas/ lands of an ongoing or in-pipeline (included in NIA budget strategy) irrigation construction projects.

4. Irrigated Lands/Areas refer 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.

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

6. Land Use Conversion refers to act or process of changing the current physical use of piece of agricultural land into some other use or for another agricultural use other than the cultivation of the soil, planting of crops, growing of trees, including harvesting of produce therefrom, as approved by DAR.

7. Land Use Reclassification Folder (LURF) contains documentary requirements listed in Item VII of this AO.

8. Network of Protected Areas for Agricultural and Agro-Industrial Development (NPAAAD) refers to the agricultural areas identified by the DA through the BSWM[9], in coordination with the NAMRIA[10], in order to ensure the efficient utilization of land for agriculture and agro-industrial development and promote sustainable growth. The NPAAAD covers [a] all irrigated areas. (b) all irrigable lands already covered by irrigation projects' with firm funding commitments. (c) all alluvial plain lands highly suitable for agriculture, not irrigated. (d) agro-industrial crop lands or lands planted to industrial crops that support the viability of existing agricultural infrastructure and agro-based enterprises. (e) highlands or areas located at an elevation of five hundred (500) meters and above that have potential for growing semi-temperate and high value crops. (f) All agricultural lands that are ecologically fragile, the conversion of which will result in serious environmental degradation. (g) all mangrove areas and fish sanctuaries. and [h] all fishery areas as defined pursuant to the RA 8550[11].

9. Premature Conversion of Agricultural Land refers to the undertaking of any development activity, the result of which may modify or alter the physical characteristics of the agricultural land such as soil, slope and land use as would render it suitable for non-agricultural purposes without an approved Conversion Order from the DAR.

10. Prime Agricultural Land refers to land that can be used for various or specific agricultural activities and can provide optimum and sustainable yield with minimum inputs and development costs as determined by the DA.
11. Private Agricultural Land refers to agricultural lands as defined herein and owned by natural or juridical persons or by the government in its propriety capacity.
12. Reclassification of Agricultural Land refers to the act of specifying how agricultural lands shall be utilized for non-agricultural purposes such as residential, industrial, commercial as embodied in the land use plan, subject to the requirements and procedure for land use conversion undertaken by the LGUs[12] in accordance with Section 20 of R.A. 7160[13] and Joint HLURB[14], DAR, DA and the DILG[15] MC 54-1995. It also includes the reversion of non-agricultural lands to agricultural use.
13. Socialized Housing refers to housing programs and projects covering houses and lots or home lots undertaken by the government or the private sector for the underprivileged and homeless citizens where the maximum cost per unit does not exceed the maximum amount as prescribed by the HUDCC[16] which shall include sites and services development, long-term financing, liberalized terms on interest payments and such other benefits in accordance with R.A. 7279.[17]
14. Strategic Agriculture and Fisheries Development Zone (SAFDZ) refers to the areas within 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.
15. Zoning is the delineation/division of a city/municipality into functional zones where only specific land uses are allowed. It directs and regulates the use of all lands in the community in accordance with an approved or adopted land use plan for the city/municipality. It prescribes setback provisions, minimum lot sizes, building heights and bulk.
16. Zoning Ordinance refers to a local legislation approving the comprehensive land use plan and providing the regulations and other conditions, on the uses of land including the limitation on the infrastructures that may be placed thereon within the territorial jurisdiction of a city or municipality.

IV. COVERAGE

1. The Issuance of the DA Certification on Land Use Reclassification is consistent with Section 3 of DAR A.O. No. 1, Series of 2002 which shall apply to the following agricultural lands:
- 1.1 Those to be converted to residential, commercial, industrial, institutional and other non-agricultural purposes;
 - 1.2 Those to be devoted to another type of agricultural activity such as livestock, poultry and Fishpond, the effect of which is to exempt the land from CARP coverage;
 - 1.3 Those to be converted into non-agricultural use other than that previously authorized;
 - 1.4 Those reclassified to residential, commercial, industrial, or other non-agricultural uses on or after the effectivity of RA. 665718 dated 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 exemption clearance from the DAR shall apply.
2. Non-Negotiable for Conversion - The following areas are non-negotiable for land conversion pursuant to Section 4 of DAR A.O. No. 1, Series of 2002:
- 2.1 All irrigated lands, as delineated by the DA and/or the National Irrigation Administration (NIA), where water is available to support rice and other crop production, and all irrigated lands where water is not available

for rice and other crop production but are within areas programmed for irrigation facility rehabilitation by the government;

2.2 All irrigable lands already covered by irrigation projects with firm funding commitments, as delineated by the DA and/or NIA; and

2.3 All agricultural lands with irrigation facilities.

3. Areas Highly Restricted from Conversion - The following areas/projects are classified as highly restricted from conversion pursuant to Section 5 of DAR A.O. No. 1, Series of 2002:

3.1 Irrigable lands not covered by irrigation projects with firm funding commitment;

3.2 Agro-industrial croplands, or lands presently planted to industrial crops that support the economic viability of existing agricultural infrastructure and agro-based enterprises;

3.3 Highlands or areas located in elevation of five hundred (500) meters or above and which have the potential for growing semi-temperate or high value crops;

3.4 Lands issued with notice of land valuation and acquisition, or subject of a perfected agreement between the landowner and the beneficiaries under the Voluntary Land Transfer (VLT)/Direct Payment Scheme (DPS) under the Comprehensive Agrarian Reform Program (CARP); and

3.5 Lands within an Environmentally Critical Area (ECA) or those involving the establishment of an Environmentally Critical Project (ECP). Applications for conversion under this sub-section shall require, apart from the standard requirements, an Environmental Compliance Certificate (ECC) which the applicant must secure from the Department of Environment and Natural Resources (DENR) prior to application (for ordinary applications) or prior to commencement of actual land development (for applications involving housing projects);

4. Lands within SAFDZ - In accordance with Section 9 of R.A. 8435, the following rules shall govern reclassification of lands within the SAFDZ:

4.1 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 SAFDZ shall be subject to a conversion moratorium for a period of five (5) years from 10 February 1998 to 9 February 2003;

4.2 During the effectivity of the moratorium, conversion may be allowed with respect to only five percent (5%) of said lands within the SAFDZ upon compliance with existing rules and regulations;

4.3 The maximum of five percent (5%) of land(s) eligible for conversion to non-agricultural use from the total SAFDZ area shall be jointly determined by the DA and DAR, upon the recommendation of the Regional and National SAFDZ Committees pursuant to Rule 9.5.2 of DA-AO -06-1998, or the implementing rules and regulations of R.A. 8435; and

4.4 After the expiration of the conversion moratorium, conversion may be allowed on a case-to-case basis, subject to existing laws, rules and regulations on land use conversion.

5. Priority Development Areas and Projects - In accordance with RA 7916, E.O. 124, 1993, and E.O. 258. 2000, the following are priority development areas for land conversion:

5.1 Specific sites in Regional Agri-Industrial Centers/Regional Industrial Centers identified by the Department of Trade and Industry (DTI) and the DA pursuant to E.O. 124, 1993;

5.2 Tourism Development Areas (TDA) identified by the Department of Tourism (DOT) pursuant to E.O. 124, 1993;

5.3 Agricultural areas intended for Eco Zone projects, endorsed by Philippine Economic Zone (PEZA), pursuant to R.A. 7916;

5.4 Agricultural land, owned by the government, to be converted for projects of national interest, as certified by the proper government agency;

5.5 Agricultural land proposed to be developed as sites for processing plants of agricultural products, as

certified by the DA, and for facilities of hydroelectric power plants in irrigation systems;

5.6 Sites intended for telecommunication facilities endorsed by the National Telecommunications Commission (NTC);

5.7 Lands proposed for energy production such as solar, windmill and other forms, endorsed or with approved and/or existing contract with the DOE; and

5.8 Housing projects, as priority development projects for land conversion, that shall follow the fast-tracking scheme prescribed under E.O. 45, 2001. When the application involves a mixed use of housing and non-housing projects, the application shall not enjoy the privileges of housing projects unless at least eighty (80%) of the land applied for conversion shall be used directly and exclusively for housing.

V. TECHNICAL COMMITTEES

1. Regional Technical Evaluation Committee On Land Use Matters (RTECLUM)

RTECLUM Composition

The RTECLUM is an inter-agency committee which shall be designated by the Secretary and composed of the following members:

Chair - DA Regional Executive Director (RED)

Members - Technical Staff from the:

National Irrigation Administration (NIA)

Philippine Coconut Authority (PCA)

Sugar Regulatory Administration (SRA)

Other concerned agencies shall be on an “on-call” basis, which include among others:

- Bureau of Animal Industry (BAI)
- Bureau of Fisheries and Aquatic Resources (BFAR)
- National Tobacco Administration (NTA)
- Philippine Fiber Industry Development Authority (PhiFIDA)

RTECLUM Secretariat shall be designated by the Secretary to assist the RTECLUM.

1.1 RTECLUM Functions

- Receive, review and ensure the completeness of documentary requirements on LUR19 application;
- Collect filing and inspection fees and issue corresponding official receipt;
- Conduct field investigation;
- Convene as a Committee to process, evaluate and provide initial recommendation as to eligibility/non-eligibility for land use reclassification;
- Submit field investigation report, initial recommendation incorporated in a Resolution and LUR folder to NTECLUM.

2. National Technical Evaluation Committee on Land Use Matters (NTECLUM)

The NTECLUM is an inter-agency committee which shall be designated by the Secretary and composed of principal and alternate members from the following agencies:

Chair - BSWM Director

Vice Chair - NIA Operations Manager

Members- Technical Staff/Representatives from:

National Irrigation Administration (NIA)
Philippine Coconut Authority (PCA)
Sugar Regulatory Administration (SRA)
Bureau of Soils and Water Management (BSWM)
DA-Field Operations Service, Office of the Secretary (DA-FOS OSEC)
DA-Legal Service, Office of the Secretary (DA-LS, OSEC)
Principal Representative - Division Chief or Higher
Alternate Representative - Two (2) Technical Staff

Other concerned agencies shall be on “on-call” basis, which include among others:

- Bureau of Animal Industry (BAI)
- Bureau of Fisheries and Aquatic Resources (BFAR)
- National Tobacco Administration (NTA)
- Philippine Fiber Industry Development Authority (PhilFIDA)

NTECLUM shall have a Technical Secretariat headed by the BSWM, which shall be composed of a Chairperson, Co-Chairperson, Vice-Chairperson and at least five (5) technical staff who shall be designated by the DA Secretary.

2.1 NTECLUM Functions

- Conduct review and evaluation on the LUR applications;
- Conduct its own field/ocular investigation, as necessary;
- Evaluate and recommend eligibility/non-eligibility for reclassification of agricultural lands for the approval of the Secretary or his authorized signatory.

VI. APPLICANT/S FOR LAND USE RECLASSIFICATION

The following may apply for land use reclassification:

1. Owner/s of private agricultural lands or other persons duly authorized by the landowner;
2. Beneficiary/ies of the agrarian reform program after the lapse of five (5) years from award, reckoned from the date of the issuance of the Certificate of Landownership Award (CLOA), and who have fully paid their obligations and are qualified under these Rules, or persons duly authorized by them; and
3. Government agency/ies, including government-owned or controlled corporations, and local government units owning agricultural lands as part of their patrimonial property.

VII. DOCUMENTARY REQUIREMENTS

1. Notarized Sworn Declaration of Application for Land Use Reclassification;
2. Proof of Ownership of Land e.g. Certified True Copy of the Original Certificate of Title or Transfer of Certificate of Title (OCT/TCT) and/or other documents establishing ownership certified by the Registry of Deeds not later than thirty (30) days prior to filing. If at time of application, the landholding is an untitled agricultural land, the following shall be required in lieu of a certified true copy of the title:

2.1 Certification from DENR Community Environment and Natural Resources (CENRO) that the landholding has been classified as alienable and disposable.

2.2 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 the titling process/ proceeding has

commenced and there are no adverse claimants.

3. Certification from the Department of Agrarian Reform (Certificate of Non-CARP Coverage) to be signed by the MARO or PARO.
4. Special Power of Attorney (if Petitioner/Applicant is other than the owner of the land or Board Resolution if the owner is a corporation (with signature of members);
5. Vicinity Map of the area with sufficient reference points;
6. Parcellary Map prepared and signed by a Licensed Geodetic Engineer indicating the Name of Owner, Title No., Area and Geographic Coordinates;
7. Zoning Certification from the HLURB signed by the Regional Officer/Deputized Zoning Administrator on the actual zoning or reclassification on the land subject of the application on the approved and updated CLUP;
8. Clear, colored photographs of the area (SR size) taken during the field investigation including the adjoining areas with captions a duly certified by a Member of RTECLUM Inspection Team;
9. Certification from NIA (Certificate of irrigation Coverage) to be recommended by the Regional Irrigation Manager and signed by the NIA Administrator;
10. Certification from SRA (Certificate of Coverage/Non-Coverage) signed by the SRA Administrator;
11. Certification from PCA (Certificate of Inspection and Verification) signed by the Regional Manager;
12. Certification from PhilFIDA, if applicable;
13. Certification from BFAR, if applicable;
14. Certification from BAI, if applicable;
15. Official Receipt of payment of filing fee and inspection fee; and
16. Field Investigation Report by the RTECLUM.

NOTE: All the certifications must be in original copies and issued in the name of the applicant or his duly authorized representative, and must be filed with the RTECLUM within six (6) months upon issuance.

VIII. CERTIFICATION FEES

The applicant shall pay the mandatory and non-refundable filing and inspection fees per application to the DA-RFO through its Cashiering Unit with the following rates and to be paid at the time of application, to wit:

Area Applied For

Filing Fee

Inspection Fee

Motion for Reconsideration

15 hectares and below

P1,750.00

P5,000.00

P2,000.0

Above 15 hectares to 30 hectares

P2,000.00

P7,500.00

More than 30 hectares

P3,000.00

P10,000.00

IX. CRITERIA FOR RECLASSIFICATION OF AGRICULTURAL LANDS

The reclassification of agricultural land/s is govern by the following criteria:

1. Not irrigated and not irrigable land/s with firm funding commitment;
2. In the event that the land/s will be reclassified and converted, it shall not hamper the availability of irrigation water or productivity of the nearby farmlands;
3. Land/s with physical limitations/constraints to agricultural production;
4. Land/s that is/are not potential for growing agricultural crops;
5. Land/s with low productivity will be accorded priority;
6. The land/s' proposed use should be consistent with the natural expansion of the municipality or locality, as contained in the approved physical framework and land use plan;
7. The land/s' proposed use is supportive to agro-industrial development and will generate alternative livelihood opportunities for the affected community.

X. PROCEDURE

1. The applicant shall file with the RTECLUM through its Secretariat at the DA-Regional Field Office (RFO) the duly accomplished Land Use Reclassification (LUR) Form 1, subscribed and sworn to before a notary public, together with the documentary requirements as enumerated under Item VII of this A.O. and compiled as "Land Use Reclassification Folder" (LURF), which shall forward the same to the RTECLUM.

Application with incomplete documentary requirements and non-payment of the required fees shall not be accepted.

2. The RTECLUM shall conduct field investigation on the property/ies applied for land use reclassification.

The report shall include, among others, the following information:

- 1) Location and accessibility;
- 2) SAFDZ Classification;
- 3) Slope, soil type, soil depth, drainage condition;
- 4) Existing land use;
- 5) Land use of the adjoining areas; and
- 6) Potential far agricultural production

NOTE: If the area applied has premature conversion, the application folder shall be returned to the applicant and the evaluation on the application will not be administered

3. The RTECLUM shall forward the LUR Folder, Field Investigation Report, Initial Recommendation incorporated in a Resolution to NTECLUM within thirty (30) working days upon receipt of the application. A

letter informing the applicant of the endorsement of their LUR Folder to the NTECLUM shall be sent via registered mail.

4. The NTECLUM in processing the LUR application shall ensure the completeness of the documentary requirements in the LUR Folder and conduct further review and evaluation of the findings and recommendation of the RTECLUM and its consistency with the NPAAAD and SAFDZ;
5. The NTECLUM may call on other DA agencies to assist them in the technical evaluation of the application;
6. When necessary, the NTECLUM may ask for additional Information or specific data requirements from the RTECLUM and/or applicant to aid them in the evaluation of the application;
7. The NTECLUM may conduct its own field investigation and verification if needed, to ensure that all requirements are properly complied before the recommendation is endorsed to the Office of the Secretary or his authorized signatory;

XI. APPROVING AUTHORITIES FOR APPLICATIONS FOR RECLASSIFICATION OF AGRICULTURAL LANDS

The following DA Officials shall approve or disapprove applications:

1. FOR SOCIALIZED HOUSING PURPOSES

- The RED or his designated Regional Technical Director (RTD) for areas outside of SAFDZ and with a total area of five (5) hectares or below.

The RED shall provide the DA Secretary or his authorized signatory a monthly report of all applications approved/disapproved indicating the Registered Owner; Title No.; Lot No.; Area Applied for, and Location of the Property, copy furnished the NTECLUM.

- The Secretary or his authorized signatory for areas outside of SAFDZ and with more than five (5) hectares; and areas within SAFDZ regardless of hectarage applied.

2. FOR OTHER NON-AGRICULTURAL PURPOSES ASIDE FROM SOCIALIZED HOUSING

The DA Secretary or his authorized signatory has the sole authority to issue Certification of Eligibility/Non-Eligibility for Reclassification of Agricultural Lands.

XII. RELEASE OF CERTIFICATION

1. The OSEC or his authorized signatory or other designated entity shall release the Certificate of Eligibility/Non-Eligibility for Reclassification of Agricultural Land through registered mail. The applicant or his authorized representative may personally receive the certificate upon submission of formal written request.
2. The Office of the Secretary or his authorized signatory shall return the LUR Folder, Committee Resolution/s and Certified True Photocopy of the certificate to the NTECLUM Secretariat for record and reference.

XIII. MOTION FOR RECONSIDERATION

1. The applicant or the protestant may file a motion for reconsideration to the DA Secretary or his authorized signatory within thirty (30) days from receipt of a copy of the Certificate of Non-Eligibility of the application from the DA Secretary or his authorized Signatory;
2. The Motion for Reconsideration shall be resolved by the DA Secretary or his duly authorized official within an extendible period of sixty (60) days from receipt of the Motion for Reconsideration;
3. The DA action on the Motion for Reconsideration shall be final and non-appealable;
4. Motions for Reconsideration for denied applications, including those issued by the REDs for socialized

housing, prior to the effectivity of this A.O. shall be given due course by the DA Secretary or his authorized signatory if filed within thirty (30) days from the effectivity hereof; and

5. Likewise, all records of pending Motions for Reconsideration shall be forwarded to the DA Secretary or his authorized signatory for review and resolution.

XIV. REPEALING CLAUSE - All existing rules inconsistent with the provisions of this Order are hereby repealed or modified accordingly.

XV. EFFECTIVITY

This Administrative Order (AO) shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation and its filing with Administrative Register, UP Law Center.

Further, this AO shall apply to all applications received prior to the effectivity of this AO.

Done in Quezon City, Philippines on the 8th day of February 2017.

(SGD) EMMANUEL F. PINOL
Secretary

[1] Department of Agrarian Reform

[2] Department of Agriculture

[3] Implementing Rules and Regulations and the Agriculture and Fisheries Modernization Act of 1997

[4] Strategic Agriculture and Fisheries Development Zone

[5] Network of Protected Areas for Agricultural and Agro-Industrial Developmen

[6] Revised Administrative Code of 1987

[7] An Act Amending Certain Provisions of R.A. No. 6657, Entitled: "An Act Instituting a Comprehensive Agrarian Reform Program to Promote Social Justice and Industrialization, Providing

[8] NIA Memorandum Circular No. 23, Series of 2015

[9] Bureau of Soils and Water Management

[10] National Mapping and Resources Information Authority

[11] Fisheries Code of 1998

[12] Local Government Units

[13] Local Government Code of 1991

[14] Housing and Land Use Regulatory Board

[15] Department of Interior and Local Government

[16] Housing and Urban Development Coordinating Council

[17] Urban Development and Housing Act of 1992

[18] Comprehensive Agrarian Reform Law

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