

AMENDMENTS TO ADMINISTRATIVE ORDER (A.O.) NO. 02, SERIES OF 2011 PARTICULARLY THE INTRODUCTION; SEC. I, II, III- 1,2,3,4,5,7, 11; IV-1,2,3, 4,5; V-1,2,3; VII, IX, X AND XI, ...

DA ADMINISTRATIVE ORDER NO. 25, S. 2012, October 31, 2012

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To further provide a judicious and systematic mechanism in the processing and evaluation of applications for land use reclassification, the guidelines for the issuance by the Department of Agriculture (DA) of Certificate of Eligibility/Non-Eligibility for the reclassification of agricultural lands are hereby amended, to wit:

I. LEGAL BASES

The process of reclassifying private agricultural lands to non-agricultural lands is governed by the Philippine Constitution, Article II, Section 21 and Article XII, Section 1; Section 2, Executive Order (E.O.) 292 Series of 1987; the pertinent provisions of Republic Act (R.A.) 6657 of 1988; R.A. 8435 of 1997; E.O. 45, Series of 2001; and the DA's Charter on Agricultural Lands.

II. GUIDING PRINCIPLES

WHEREAS, Presidential Memorandum dated April 16, 1999 which provides that the Department of Agrarian Reform's (DAR) Administrative Order (A.O.) No. 01, Series of 1999 shall serve as the primary guide for land use conversion from agricultural lands to non-agricultural with DA's land reclassification certification as a requirement;

WHEREAS, DA A.O. No. 6, Series of 1998 Rule 9.3 (Implementing Rules and Regulations of the Agriculture and Fisheries Modernization Act), which provides that the land use conversion from agricultural to non-agricultural of lands covered under the Strategic Agriculture and Fisheries Development Zone (SAFDZ) as set forth in the A.O. establishing the SAFDZ shall be limited, per Sections 9 and 12, in addition to any existing rules, and regulations and procedures regarding applications for land use conversion and the protection of watershed areas, including R.A. 6657, Presidential A.O. Nos. 20 and 363, and Section 20 R.A. 7160;

WHEREAS, DAR A.O. No. 1, series of 2002, which requires DA certification on the classification of a property applied for land use conversion as whether within Network of Protected Areas for Agricultural and Agro-industrial Development (NPAAAD) and SAFDZ pits DA into land use conversion process;

WHEREAS, E.O. 292 also known as the Revised Administrative Code of 1987, in its title IV, Chapter 1, Section 2, stipulates that 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, R.A. 7881 as it amends Section 3-B. 10 and 11 of R.A. 6657 stipulates that 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.

WHEREAS, R.A. 8435 otherwise known as the Agriculture and Fisheries Modernization Act of 1997 emphasizes the importance of food security by declaring as a 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.

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 aquiculture 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 the law as mineral land, forest land, residential land, commercial land or industrial land.

2. Irrigable Lands / Areas - refer to those with marked characteristics in terms of soil depth and texture, field terrain and slope, and water availability and quality, reflective of inherent potential for the development and operation of an irrigation system.

2a. 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.

3. Serviceable or Irrigation Areas/Lands - refer to those within the command area of irrigation systems or those provided with irrigation facilities. Due to constraints like water supply shortage, water distribution inequitableness and irrigation facility dysfunction, sections of which may not be irrigated in any season.

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

5. Land Use Conversion - refers to the act or process of changing the current use of a piece of agricultural land into some other use, which is subject to the approval by the DAR with DA certification on eligibility for land reclassification as a requirement.

6. Network of Protected Areas for Agricultural and Agri-industrial Development - refers to agricultural areas identified by the Department of Agriculture 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 (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 croplands 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 the 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 Fisheries Code of 1998.

7. 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 as would render it suitable for non-agricultural purposes without an approved Conversion Order from the DAR.

8. Private Agricultural Lands - refer to agricultural lands as defined herein and owned by natural or juridical persons or by the government in its propriety capacity.

9. **Reclassification of Agricultural Lands** - 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 reclassification undertaken by the Local Government Unit (LGU) in accordance with Section 20 of RA 7160 and Joint Housing and Land Use Regulatory Board (HLURB), DAR, DA and the Department of Interior and Local Government (DILG) MC 54-1995 and as provided for in these Guidelines. It also includes the reversion of non- agricultural lands to agricultural use.
10. **Socialized Housing** - refers to housing programs and projects covering houses and lots or homelots 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 Housing and Urban Development Coordinating Council (HUDCC) 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.
11. **Strategic Agriculture and Fisheries Development Zone** - refers to areas within NPAAAD identified for production, agro-processing and marketing activities to help develop and modernize, with the support of the government, the agricultural and fisheries sectors in an environmentally and socio-culturally sound manner.
12. **Zoning** - is the delineation/division into functional zones of a city/municipality 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.
13. **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. **Applicability of Rules** – These guidelines shall apply to the issuance of DA Certification on land reclassification consistent with DAR A.O. No. 1, Series of 2002 on land conversion, as follows:

- 1.1 Those lands to be converted to residential, commercial, industrial, institutional and other non-agricultural uses;
- 1.2 Those lands to be converted to another type of agricultural activity or use such as (a) livestock (b) poultry and (c) fishpond, the effect of which is to exempt the land from CARP coverage;
- 1.3 Those lands to be converted to non-agricultural use other than that previously authorized; and
- 1.4 Those lands that have been reclassified by the Local Government Unit (LGU) or by way of a Presidential Proclamation, to residential, commercial, industrial or other non-agricultural uses on or after the effectivity of R.A. 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 exemption clearance from the DAR shall apply;

2. **Areas Non-Negotiable for Conversion** – The following areas are nonnegotiable for land use conversion pursuant to Section 4 of DAR A.O. 1, series of 2002;

- 2.1 All serviceable or irrigation areas/lands whether not irrigated in any particular season;
- 2.2 All project areas/ lands within ongoing and /or in-pipeline construction irrigation projects with firm funding commitments;

Provided that, an application involving areas that are non-negotiable for conversion shall not be given due course even when some portions thereof are eligible for conversion.

Provided that high elevation or isolated areas/lands within serviceable, irrigation or projects areas which are excluded areas/lands, are eligible for land reclassification and conversion.

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. 1, Series of 2002;

- 3.1 Irrigable lands, covered by proposed irrigation projects listed in the medium term (10-year) irrigation development program of the National Irrigation Administration (NIA) regional irrigation offices not yet listed in the NIA's budget strategy.
- 3.2 Alluvial plain lands only suitable for agriculture, not irrigated;
- 3.3 Agro-industrial croplands or lands planted to industrial crops that support the validity of existing agricultural infrastructure and agro-based enterprises;
- 3.4 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;
- 3.5 Agricultural lands that are ecologically fragile;
- 3.6 Mangrove areas and fish sanctuaries (under Sec. 71 of RA 7161, the cutting of mangrove species is banned); and
- 3.7 All fishery areas as defined pursuant to the Fisheries Code of 1988.

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

- 4.1 All serviceable, irrigation and project lands/areas, and lands with existing or having the potential for growing high-value crops included within the SAFDZ are non-negotiable for land use reclassification or conversion.
- 4.2. Reclassification may, however, be allowed to lands/areas within serviceable, irrigation and project lands/areas, which are excluded from the intended/design serviceable areas/lands by reason of elevation (high lying or low lying) and isolation (bounded by creeks, rivers, depressions or urbanized area).

5. Priority Development Areas and Projects – In accordance with R.A. 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 Telecommunication Commission (NTC); and
- 5.7 Housing projects are 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 unless at least eighty (80%) of the land applied for conversion shall be used directly and exclusively for housing.

V. TECHNICAL COMMITTEES:

1. THE REGIONAL TECHNICAL EVALUATION COMMITTEE ON LAND USE MATTERS (RTECLUM)

The RTECLUM shall be headed by the Department of Agriculture – Regional Field Unit (DA-RFU) Regional Executive Director (RED) and with members from the technical staff of the RFU, National Irrigation

Administration (NIA), Philippine Coconut Authority (PCA) and Sugar Regulatory Administration (SRA). Other concerned agencies will be on-call basis. The final composition thereof shall be submitted by the Regional Executive Director to the National Technical Evaluation Committee on Land Use Matters (NTECLUM) and to the DA Secretary or his authorized official for information and proper coordination.

2. THE NATIONAL TECHNICAL EVALUATION COMMITTEE ON LAND USE MATTERS (NTECLUM)

2.1 The NTECLUM shall be an inter-agency Committee composed of one representative from:

Chairperson

-

Representative, BSWM
(Assistant Director or Division Chief Level)

Vice-Chairperson

-

Representative from PCA
(Division Chief Level)

Members

-

Representatives from BSWM, NIA, PCA, SRA

2.1.1 It shall have a Technical Secretariat headed by the BSWM, which shall be composed of a Chairperson, Vice-Chairperson, and least five (5) members, who shall be designated by the DA Secretary or his authorized signatory through a Special Order.

3. THE COMMITTEE ON THE REHABILITATION OF AGRICULTURAL LANDS (CRAL)

3.1 The CRAL shall serve as an oversight committee whose function is to revalidate the result of the deliberation of NTECLUM by conducting a set of reinspection and/or re-evaluation of the application, as the case may be, and shall be composed of the following:

Chairperson

-

Director, BSWM

Vice-Chairperson

-

Representative from NIA
(Department Manager of Higher)

Members

-

Representatives from BSWM, NIA, PCA, SRA
(Division Chief Level)

3.2 It shall have a Technical Secretariat headed by the BSWM, which shall be composed of a Chairperson, Vice-Chairperson, and at least five (5) members, who shall be designated by the DA Secretary or his authorized signatory through a Special Order.

VI. WHO MAY APPLY FOR RECLASSIFICATION – the following persons/entities may apply for reclassification:

1. Owners of private agricultural lands or other persons duly authorized by the landowners; and
2. Government agencies, 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/CT) and/or other documents establishing ownership by the Registry of Deeds not later than thirty (30) days prior to filing. If at all times 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 of the DENR Community Environment and Natural Resources (CENRO) that the landholding has been classified as alienable and disposable.

2.2 Certification of the 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. 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 signatures of members);
4. Map of the Area/Parcellary Map prepared by a Licensed Geodetic Engineer indicating the Name of Owner, Title No., and Area);
5. Updated Land Use Plan Map per approved Comprehensive Land Use Plan (CLUP) of the city or municipality: Location Map with sufficient reference point for proper identification of lot/s applied for (if no updated land Use Plan Map);
6. Zoning Certification from HLRUB signed by the Regional Officer/Deputized Zoning Administrator on the actual zoning or classification of the land subject of the application on the approved and updated CLUP citing: (a) the municipality or city zoning ordinance number; and (b) resolution number and date of approval by the HLRUB or the Sangguniang Panlalawigan concerned, as the case may be;
7. Photographs of the area (5R size) with captions duly certified by a member of the RTECLUM Inspection Team;
8. Certification from the NIA (5 hectares and above to be signed by the Regional Irrigation/Operations Manager and less than 5 hectares signed by the Head of the concerned Irrigation Management Office or Irrigation Division Office);
9. Certification from the SRA, if applicable;
10. Certification from the PCA signed by the Regional Manager, if applicable;
11. Certification from the Fiber Industry Development Authority (FIDA), if applicable;
12. Certification from the Bureau of Fisheries and Aquatic Resources (BFAR), if applicable;
13. Official Receipt of payment of filing fee and inspection fee; and
14. Field Investigation Report by the RTECLUM.

NOTE: All Certifications for the specific land/parcel being applied for reclassification shall be issued in the name

of applicant or his duly authorized representative.

VIII. CERTIFICATION FEES

The DA-RFU through its cashiering unit, shall collect filing and inspection fees per application with complete set of documentary requirements, on the following rates and to be paid at the time of application, to wit:

Area Applied For Filing Fee Inspection Fee

15 hectares and below

P1,750.00 P5,000.00

Above 15 hectares to 30 hectares

P2,000.00 P7,500.00

More than 30 hectares

P3,000.00 P10,000.00

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

IX. CRITERIA FOR RECLASSIFICATION OF AGRICULTURAL LANDS – Lands/Areas specified/described below are eligible for land reclassification:

1. Not irrigated areas/lands (or outside irrigated lands/areas) including high-elevation, low lying and isolated areas/lands within serviceable, irrigation and project areas/lands;
2. Irrigable lands/areas not covered by proposed irrigation construction projects listed in the medium term (10-year) development program of NIA regional offices;
3. Not potential for growing high value crops;
4. 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;
5. The area to be reclassified in use is not the only remaining food production area in the community.
6. The land use reclassification shall not hamper the availability of irrigation or productivity of the nearby farmlands;
7. Areas with lower productivity will be accorded priority for land use reclassification; 8. The proposed project is supportive to agro-industrial development and will generate alternative livelihood opportunities for the affected community;

X. PROCEDURES

RTECLUM STAGE (CHARACTERIZATION OF SUBJECT LANDS/AREAS)

1. Applicant shall file with the RTECLUM at the DA-RFU Office the duly accomplished DA-Land Use Reclassification (LUR) Form 1, together with all the documentary requirements enumerated in Item VII of this A.O.

1.1 RTECLUM receiving officer shall review the documents for completeness; if incomplete, it shall require the applicant to submit the lacking documents.

1.2 In coordination with DAR (local and national), the DA-RTECLUM and or NTECLUM and CRAL shall be given authority to monitor and inform DA Secretary or his authorized official all illegal Land Use

Reclassification/Land Use Conversion with premature development throughout the region.

1.3 The RTECLUM shall conduct field investigation for all applications upon receipt of complete application and payment of filing and inspection fees. The report must include the following information:

- a. Location and accessibility;
- b. Limitations to agricultural production such as steep slope, unstable soil condition (landslide, erosion, etc.), inadequate land drainage/flooding; very shallow soil, stony, rocky soil; very serious boulder problem;
- c. Existing land use;
- d. Indications of premature development or alteration of land use (with photographs);
- e. Land use of adjoining areas;
- f. Indication of non-agricultural development; and
- g. Potential for agricultural production.

1.4 RTECLUM shall submit its report, together with the Land Use Reclassification Folder (LURF) containing all the documentary requirements of the application, to the DA RED. 1.5 DA-RED shall review and submit their recommendations to the NTECLUM for evaluation.

NTECLUM STAGE (VALIDATION OF LAND/AREA CHARACTERIZATION)

2. The NTECLUM shall further review the application and accompanying documents for its completeness, as well as the results of field investigation and their consistency with NPAAAD and SAFDZ maps.

2.1 When necessary, the NTECLUM may ask for additional field investigation to the RTECLUM defining specific data requirements needed for its final evaluation.

2.2 The NTECLUM may conduct its own investigation, if needed to ensure that all appropriate requirements are properly complied with before the application is finally endorsed to the DA Secretary or his authorized signatory.

2.3 If necessary, the NTECLUM may call on other agencies to assist in the technical evaluation of the application for land use reclassification.

2.4 The NTECLUM shall promptly notify the applicant/authorized representative of any additional requirements through telephone call and registered mail with return card.

2.5 The NTECLUM, after due evaluation/ocular investigation or validation, shall submit its findings and recommendations together with the LURF directly to the DA Secretary or his authorized signatory.

CRAL STAGE (EXPLORATION OF POSSIBILITY OF REHABILITATION OF DEFICIENT LANDS/AREAS)

3. The CRAL shall further review the finding of NTECLUM, check the possibility of resolving identified land deficiency and ensure the completeness of documentary requirements information on land use reclassification applications and its NTECLUM recommendation.

3.1 If required, the CRAL must conduct the final investigation and validation of areas applied for land reclassification.

3.2 The CRAL, after due investigation and validation, shall submit its findings and recommendations together with the LURF directly to the DA Secretary or his authorized signatory.

4. The DA Secretary or his duly authorized signatory shall review the application and issue the Certificate of Eligibility/Non-Eligibility thereof. The DA Secretary or his authorized signatory shall send the original of the Certificate of Eligibility/Non-Eligibility directly to the applicant/authorized representative or through the DARFU concerned retaining a certified photocopy of the certificate for record/reference purposes.

5. The entire records of the application shall be retained by the DA Secretary or his authorized signatory, for future reference, particularly for the purpose of deciding on Motions for Reconsideration filed by the applicant

after disapproval of the application by the DA Secretary or his authorized signatory.

XI. APPROVING AUTHORITIES FOR APPLICATIONS FOR RECLASSIFICATION OF AGRICULTURAL LANDS

FOR SOCIALIZED HOUSING PURPOSES

The following DA Officials shall approve or disapprove applications for socialized housing purposes, thus:

1. The RED or his designated Regional Technical Director for areas outside of SAFDZ and within a total area of five (5) hectares and 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.
2. The Secretary or his designated/authorized official for areas covering more than five (5) hectares.

FOR OTHER NON-AGRICULTURAL PURPOSES ASIDE FROM SOCIALIZED HOUSING The DA Secretary or his authorized signatory has the sole authority to issue Certificate of Eligibility/Non-Eligibility for Reclassification of Agricultural Lands.

XII. 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 Secretary or his duly authorized official within an extensible 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. Likewise, all records of pending motions for reconsideration shall be forwarded to the DA Secretary or his authorized signatory for review and resolution.

XIII. REPEALING CLAUSE

This A.O. shall repeal all previous issuances inconsistent herewith.

XIV. EFFECTIVITY

This A.O. shall take effect ten (10) days after its publication in two (2) newspapers of general circulation.

31 day of October 2012, Quezon City, Metro Manila, Philippines.

(SGD.) PROCESO J. ALCALA
Secretary

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