

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

GUIDELINES ON THE ISSUANCE OF CERTIFICATION FOR LAND USE RECLASSIFICATION

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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