

[**DA ADMINISTRATIVE ORDER NO. 1, s. 1998,
February 18, 1998**]

**ADMINISTRATIVE ORDER PROVIDING FOR FURTHER
AMENDMENTS TO THE RULES AND REGULATIONS FOR THE
IMPLEMENTATION OF THE AGRICULTURAL MINIMUM ACCESS
VOLUMES (MAVs) CONTAINED IN ADMINISTRATIVE ORDER NO.
8, SERIES OF 1997**

WHEREAS, Department of Agriculture (DA) Administrative Order No. 8 (AO8), series of 1997 provides for the Amended Rules and Regulations for the Implementation of the Agricultural Minimum Access Volumes (MAVs);

WHEREAS, a review of said AO8 identified certain provisions that may be amended to enhance and refine the implementation of the MAV mechanism;

WHEREAS, the DA conducted several consultations with affected sectors to take into account their concerns while respecting the Philippines' commitments under the GATT Uruguay Round Final Act;

NOW, THEREFORE, the following provisions contained in AO8 are hereby amended as follows:

1. Section I.B.10 providing for the definition of a MAV Entrant is hereby amended by deleting the phrase "in any given MAV allotment year" and expanding the definition to include licensees which failed to get regular licenses in the prior MAV year. Thus, the same shall read as follows:

"10. *MAV Entrant* — a person, firm, cooperative, or any legal entity which is granted an MAV license for the first time **OR AN OLD LICENSEE WHICH FAILED TO GET A REGULAR MAV LICENSE IN THE PRIOR MAV YEAR.**"

2. Insert between Section I.B.11 and I.B.12 definition of the MAV Import Consolidator, which reads as follows:

"12. MAV IMPORT CONSOLIDATOR — A LICENSEE AUTHORIZED BY ANOTHER LICENSEE TO IMPORT ALL OR PART OF THE LATTER'S ALLOCATION."

3. Section I.B.15 providing for the definition of a MAV year is hereby amended by moving forward the opening and closing dates of the MAV year by one month. Thus, the same shall read as follows:

"15. *MAV year* — the annual MAV implementation cycle which starts on **FEBRUARY 1 OF ANY GIVEN YEAR** and ends on **JANUARY 31 OF THE**

NEXT year.”

4. Section I.B.16 providing for the definition of the Mid-Year Pool is hereby amended by deleting the word “temporarily” and moving forward the deadline for voluntary surrenders by one month. Thus, the same shall read as follows:

“16. *Mid-Year Pool (MYP)* — the total volume of allocations surrendered by MAV licensees to the MAV Secretariat on or before the last working day of MAY of an MAV allotment year.”

5. Section I.C.1.a providing for the composition of the MAV Management Committee is hereby amended by deleting the phrase “that all MMC resolutions shall be signed by the principals themselves.” Thus, the same shall read as follows:

“The Chairperson and members of the MMC may designate their respective alternates, who shall be officials of their respective AGENCIES with the rank of at least an Assistant Secretary or equivalent, and who shall have full authorization to vote and act on their behalf.”

6. The first paragraph of Section I.D.2.a providing for the subsequent year eligibility requirements for the first-come-first-served schemes of the BYP and MYP of a fully subscribed product is hereby amended by deleting the phrases “in the ordinary course of business” and “during the said period” and setting a minimum import volume. Thus, the same shall read as follows:

“a. For products whose MAVs are fully subscribed, only persons, firms, cooperatives, or any other legal entities which have operated a business involving the MAV product concerned as of the start of the prior MAV year and which have imported **THE MINIMUM IMPORT VOLUME FOR** the MAV product concerned **AT ANY TIME DURING THE IMMEDIATELY PRECEDING TWELVE MONTHS BUT NOT LATER THAN THE CLOSE OF THE APPLICATION PERIODS PROVIDED FOR THE BEGINNING YEAR POOL (BYP) AND THE MID-YEAR POOL (MYP)** shall be eligible for allocations from the BYP and the MYP for the MAV product concerned as provided for in Sections I.F(5) and I.G.(3) of this Order. **THE MINIMUM IMPORT VOLUME SHALL BE EQUAL TO ONE-HALF OF THE PERTINENT ECONOMIC SIZE LOTS AS INDICATED IN ANNEX II HEREIN.**”

7. The first paragraph of Section I.D.2.b providing for the subsequent year eligibility requirements for the first-come-first-served schemes of the BYP and MYP of an under subscribed product is hereby amended by setting a minimum import volume. Thus, the same shall read as follows:

“b. For products whose MAVs are under subscribed, persons, firms, cooperatives, or any other legal entities which have not been in business involving the MAV product concerned as of the start of the prior MAV year and/or have not imported **THE MINIMUM IMPORT VOLUME FOR** the same product shall be eligible for allocations from the BYP and the MYP for the MAV product concerned through the first-come-first-served allocation scheme, as provided for in Sections I.F(5), I.F(8) and I.G(3) of this Order, provided that the requirements of eligible licensees and MAV entrants for the MAV product concerned have been met.”

8. Section I.D.2.c providing for the documents required of MAV entrants is hereby amended by deleting the phrases “in the ordinary course of such business, changing the requirements on tax payments and clarifying the year for which the business permit is required.” Thus, the same shall read as follows:

“c. As proof of its track record, a person, firm, cooperative, or any legal entity which has operated a business involving a MAV product as of the start of the prior MAV year and has imported **THE MINIMUM IMPORT VOLUME FOR** the same product during the same period shall submit the following documents as attachments to its application as a MAV entrant:

“i. a Department of Trade and Industry (DTI), Securities and Exchange Commission (SEC), or Cooperative Development Authority (CDA) certificate of registration, whichever is applicable;

“ii. a duly-notarized sworn statement to the effect that it had imported the MAV product concerned within the prior MAV year;

“iii. the original and a copy of the Import Entry and Revenue Declaration/s (IERD/s) pertinent to the importation/s made of the MAV product within the prior MAV year;

“iv. **THE INCOME TAX RETURN, OR THE APPROPRIATE BUREAU OF INTERNAL REVENUE (BIR) FORM FOR EXEMPT ORGANIZATIONS, FOR THE LATEST FISCAL YEAR;**

“v. the business permit issued by the Office of the Mayor **FOR THE CURRENT YEAR;** and

“vi. where appropriate, the most recent accreditation certificates from pertinent DA agencies.”

9. Section I.D.2.d providing for the documents required of applicants to the first-come-first-served schemes of the BYP or the MYP is hereby amended by replacing the phrase “and Bills of Lading and/or Invoices,” with the phrase “and the appropriate proof of import shipment” and clarifying the year for which the business permit is required. Thus, the same shall read as follows:

“d. A person, firm, cooperative, or any other legal entity which has not operated a business involving the MAV product concerned as of the start of the prior MAV year and/or has not imported **THE MINIMUM IMPORT VOLUME FOR** the same product but which applies for access to the BYP or the MYP for the MAV product, through the first-come-first-served allocation scheme provided for in Sections I.F(5), I.F(8), and I.G(3) of this Order, shall submit the following documents together with its application/s **AND THE APPROPRIATE PROOF OF IMPORT SHIPMENT** as provided for in Section I.F(8)b of this Order:

“i. A DTI, SEC, or CDA certificate of registration, whichever is applicable;

“ii. the business permit issued by the Office of the Mayor **FOR THE CURRENT YEAR;** and

"iii. where appropriate, the most recent accreditation certificate from pertinent DA agencies."

10. Insert a provision between Section I.D.2.d and Section I.D.2.e in order to reduce the number of documents required of licensees applying for allocations in subsequent years. This provision shall read as follows:

"e. A LICENSEE IN ANY GIVEN MAV ALLOTMENT YEAR APPLYING FOR ITS REGULAR ALLOCATION AND ALLOCATION FOR THE BYP IN THE SUBSEQUENT MAV ALLOTMENT YEAR SHALL SUBMIT THE FOLLOWING DOCUMENTS AS ATTACHMENTS TO ITS APPLICATION AS A REGULAR LICENSEE:

"i. THE INCOME TAX RETURN, OR THE APPROPRIATE BIR FORM FOR EXEMPT ORGANIZATIONS, FOR THE LATEST FISCAL YEAR; AND

"ii. THE BUSINESS PERMIT ISSUED BY THE OFFICE OF THE MAYOR FOR THE CURRENT YEAR."

11. Section I.D.3.b providing for the application periods for the BYP and MYP is hereby amended by redefining the opening and closing dates for application to the BYP and MYP. Thus, the same shall read as follows:

"b. The application period for regular allocations and access to the BYP of an MAV allotment year shall start on the first working day of NOVEMBER and close at 5:00 p.m. on the last working day of NOVEMBER of the prior MAV year. The application period for access to the MYP shall OPEN ON THE THIRD WORKING DAY OF JUNE AND CLOSE AT 5:00 P.M. ON THE FIRST WORKING DAY AFTER JUNE 15 of the MAV allotment year. Applications submitted after the close of these application periods shall not be accepted. ONLY APPLICATIONS SUBMITTED TO AND RECEIVED BY THE MAV SECRETARIAT SHALL BE HONORED."

12. Section I.D.5 prescribing periods for the processing, publication and approval of the allocations and the issuance of the BYP licenses is hereby amended by deleting the first and the third sentences "The MAV Secretariat shall process all applications for regular licenses and access to the BYP for an MAV allotment year during the period from the first working day of November to the first working day after December 7 of the prior MAV year," and "At the end of this week, the MAV Secretariat shall make its recommendations to the MMC on the regular allocations and the allocations from the Systematic Distribution Scheme (SDP) of the BYP," and adjusting the dates. Thus, the same shall read as follows:

"5. On the first working day after JANUARY 15 of the prior MAV year, the MAV Secretariat shall publish in two newspapers of national circulation a tentative list of licensees and the volumes allocated to each. Applicants shall have one week within which to seek redress with the MAV Secretariat regarding their respective allocations.

"Regular licenses covering regular allocations and allocations from the SYSTEMATIC DISTRIBUTION PROCEDURE (SDP) of the BYP shall be

issued not later than the first working day **AFTER FEBRUARY 7** of the MAV allotment year concerned."

13. Section I.D.6 prescribing the periods for the processing and issuance of MYP licenses is hereby amended by deleting the sentence "Applications for the MYP shall be processed from the first working day after June 1 to the first working day after June 15; and adjusting the dates. Thus, the same shall read as follows:

"6. ON THE FIRST WORKING DAY AFTER JUNE 21, THE MAV SECRETARIAT SHALL PUBLISH IN TWO NEWSPAPERS OF NATIONAL CIRCULATION A TENTATIVE LIST OF LICENSEES AND THE VOLUMES ALLOCATED TO EACH. APPLICANTS SHALL HAVE THREE DAYS FROM THE DATE OF SUCH PUBLICATION WITHIN WHICH TO SEEK RECTIFICATION REGARDING ANY PROBLEMS THEY MAY HAVE ON THE ALLOCATIONS. Special licenses covering allocations from the SDP of the MYP shall be issued not later than the first working day of July of the particular MAV allotment year."

14. Section I.D.7 prescribing the process for rejecting applications for the regular, BYP and MYP allocations is hereby amended to redefine the dates accordingly. Thus, the same shall read as follows:

"7. Where the MAV Secretariat rejects an application for a regular allocation and for access to the BYP, it shall inform the concerned applicant of the reasons for rejecting the application not later than the first working day after **DECEMBER 15** of the prior MAV year. Where the MAV Secretariat rejects an application for access to the MYP, it shall inform the concerned applicant of the reasons for rejecting the application not later than the first working day after June 18 of the MAV allotment year. The reasons for rejecting applications may include any of the grounds mentioned in Section I.H(6) of this Order."

15. Section I.F.1 classifying MAV applicants into three categories is hereby amended by replacing the word "old" with "regular." Thus, the same shall read as follows:

"For any particular MAV allotment year subsequent to the initial year of the implementation of the MAV mechanism, the MAV Secretariat shall no longer classify applicants into producers, processors, traders or commercial food service providers. Instead, it shall classify applicants as: (a) **REGULAR** licensees, (b) MAV entrants, or (c) applicants for the first-come-first-served distribution of the BYP and the MYP."

16. Section I.F.2 providing for the renewal of the regular allocations awarded to licensees is hereby amended by stating explicitly that such allocations shall be recalled if the licensees fail to apply for the regular allocations in the following year. Thus, the same shall read as follows:

"2. All regular licensees shall retain their MAV allocations for a product in the prior MAV year, except the volumes which they got from the MYP and the MAV Plus mechanism, as well as those cancelled and/or recalled in accordance with Section I.H of this Order, **PROVIDED THAT THEY COMPLY WITH ALL THE APPLICATION REQUIREMENTS.** In the **EVENT** a license is subject to recall, a **REGULAR** licensee's allocation shall be subject to diminution, based on the formula in Section I.H of this