



December 07, 2000

ADMINISTRATIVE ORDER NO. 52

Series of 2000

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. 1 SERIES OF 1998.

WHEREAS, Department of Agriculture (DA) Administrative Order No. 1(AOI) series of 1998 provides for the Amended Rules and Regulations for the Implementation of the Agricultural Minimum Access Volumes (MAVs);

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

WHEREAS, the DA conducted consultation with MAV Advisory Councils (MACs) which represent the 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 AOI are hereby amended as follows:

1. Section I.C.2.a providing for the composition of the MAV Advisory Council is hereby amended by deleting the Cattle, goat, beef and goat producing sector and the representative from Agricultural Fisheries Council are reduced to one. Thus, the same shall read as follows:

The MAV Advisory Council (MAC) shall be composed of **ten (10) members** from the private sector who shall be appointed by the MMC for a term of one (1) year. The MAC shall be chaired by a DA official with the rank of at least an Assistant Secretary or equivalent and shall be composed of the following:

- i. one (1) representative from the hog and pork producing sector;
- ii. one (1) representative from the poultry and poultry meat producing sector;
- iii. one representative from the grains producing sector;
- iv. one representative from the sugar producing sector;
- v. one representative from the sector producing other MAV products;
- vi. one representative from the non-meat processing sector;
- vii. one representative from the meat processing sector;
- viii. one representative from the trading and commercial food service sectors;
- ix. one representative from the consumers' sectors;
- x. one representative of the National Agriculture and Fishery Councils

2. Section I. D.3.a providing for a requirement to the application of companies with the same ownership. Thus the same shall read as follows:

All licensees shall make separate applications for their respective regular allocations, access to the BYP, and access to the MYP. Companies directly or indirectly owned by the same person or entity shall be limited to one application per MAV product category. Indication of common ownership include but are not limited to similarity in incorporators, interlocking directors and similar office address, as may be determined by the Secretary or his/her duly designated representative. All applications in violation of this rule shall ipso facto be disqualified from being awarded any allocation under any MAV product category for a period of one calendar year. Provided, that this rule shall not apply to

companies with overlapping ownership engaged in legitimate business operations, where the corporations are not used to defeat public interest or the purpose of these rules; Provided further, that there is full disclosure on the part of the applicant at the time of application. All other entities desirous of access to either the BYP or the MYP under the procedures described in Section I.F shall also make separate applicants.

3. Section I.E.5 providing a condition that will give priority to end-users on grain and sugar sectors. Thus the same shall read as follows:

The MAV Secretariat shall put together a BYP which is the sum of the incremental MAV, the allocations recalled under pertinent provisions of this Order, as well as any MAVs not availed of in the prior MAV year. The BYP shall be allocated, first through the conduct of the SDP and then, if necessary, through the first-come-first-served distribution procedure. In the grain and sugar sectors, the Secretary of Agriculture may decide to give priority to end-users in allocating BYP, MYP and MAV plus in cases which may prove beneficial to the sector. Provided, that in case of existing allocations, the licensee shall be provided an opportunity to justify its initial allocation.

4. Section I. F.6.b 2nd paragraph providing for the determination of licensee or MAV entrant in case volume request is beyond the capacity of the licensee or MAV entrant is hereby amended by inserting a provision. Thus the same shall read as follows:

The volumes allocated to such licensees or MAV entrants shall either be the total volumes indicated in the lots which are drawn in their respective volume requests, whichever is lower. Provided, that in cases where the volume request is beyond the capacity of the licensee or MAV entrant, as may be determined using historical data such as previous importation volumes, consumption rate, and market share, the Secretary of Agriculture or his/her designated authority, upon consultation with the MAC, may determine a specific volume which will be considered as the volume requested for purposes of (BYP or MAV plus) allocating under the SDP. The volumes awarded to these entities shall not form part of their regular allocations in the succeeding MAV allotment year.

5. Section I. H.2 prescribing no penalties for underutilization for causes beyond its control. Thus the same shall read as follows:

All licensees utilizing less than eighty percent (80%) of their respective net allocations over a twelve-month period shall be penalized by having part of such allocations recalled for purposes of determining allocations in the succeeding MAV year. The utilization rate shall be reckoned as of December 15, thereby effectively setting the utilization threshold at seventy percent (70%), or 80% multiplied by 10.5 months over 12 months, using the formula in Annex V of this Order. The MMC shall recall from the regular allocation of a licensee in the following MAV year: (a) 50% of the unused out of the Unsurrendered volumes in the first instance of failure to meet the utilization threshold in a MAV allotment year; (b) 75% of the unused out of the Unsurrendered volumes in the second instance of failure to meet the utilization threshold; and (c) 100% of the unused out of the Unsurrendered volumes in the third and succeeding instances of failure to meet the utilization threshold. Provided that this rule shall not apply in cases where the licensee was prevented from utilizing its net allocation for causes beyond its control.

6. Section I. H.4 prescribing a no penalty provision in case a MAV licensee will use a local supply. Thus the same shall read as follows:


All licensees which surrender all or part of their respective allocations shall be penalized. The MMC shall recall from the regular allocation of a licensee in the following

MAV year 10% of the surrendered volumes of the licensee if such surrender is made on or before the last working day of May. No penalty if the MAV licensee reduces his allocation utilization rate due to usage of local supply, upon submission of proof of local purchases, provided the allocation shall be surrendered so it may form part of the MYP.

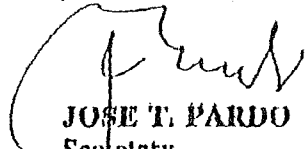
7. **Section II. D.2.a** prescribing the utilization rate of MAV plus allocation. Thus the same shall read as follows:

The SDP described in Section I.1 of this Order shall be conducted to allocate the additional volumes available under the MAV Plus mechanism to licensees which (i) have not surrendered all or part of their respective licenses, (ii) have utilized, as of the last day of the application period, at least eighty percent (80%) of their respective net allocations in the pertinent MAV allotment year, and (iii) have utilized at least 90% of their preceding MAV plus allocation. The utilization rate shall be determined on the basis of the MAVICs issued in the pertinent MAV year.

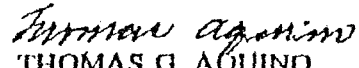
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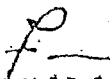

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