

[DAR Administrative Order No. 05, s. 2015, June 08, 2015]

AMENDMENT TO ADMINISTRATIVE ORDER NO. 5, SERIES OF 2014

Adopted: 08 June 2015

Date Filed: 29 June 2015

PREFATORY STATEMENT

The CARP, established in 1988, was originally conceived to be implemented within a ten-year period, the funding source and automatic appropriation^[1] given for the program was to last only until 1998. In 1998, R.A. No. 8532 extended the funding source and automatic appropriation for another ten years (the program was not extended considering that it was never intended to expire)^[2].

A shift in perspective in the latter half of the previous decade pushed the Congress to pass in 2009 R.A. No. 9700, or the CARP Extension with Reform (CARPER). The CARPER extended the CARP, or at least the land acquisition and distribution (LAD) component thereof, for five years.^[3] The law gave the LAD a definite period.

Fortunately, Section 30 of R.A. No. 9700 allowed the government to proceed with the acquisition and distribution of private agricultural lands that are already covered by Notices of Coverage (NOC) prior to, or is a subject of a pending case on, 30 June 2014. The said provision states that:

" SECTION 30. Resolution of Cases. - Any case and/or proceeding involving the implementation of the provisions of Republic Act No. 6657, as amended, which may remain pending on June 30, 2014 shall be allowed to proceed to its finality and be executed even beyond such date."

The importance of this provision and the scope of its applicability can be culled from the minutes of the *Bicameral Conference Committee of the Disagreeing Provisions of HB 4077 and SB 2066 Re: CARP Extension of the Committee on Agrarian Reform on 09 June 2009* that considered the said law. In the aforesaid minutes, it was clarified and agreed upon by the members of the committee that the scope of Section 30 includes not only pending administrative or quasi-judicial cases, but also proceedings involving the program of coverage not yet completed, as of 30 June 2014. This inclusion was made in order to make the Section 30 more encompassing. As such, there is an emphasis that pending cases with the DAR, as well as the implementation of proceedings for acquisition and distribution not yet completed as of 30 June 2014, shall continue until they are all finally disposed of and executed.

Unfortunately, not all private agricultural landholdings were covered by a case or a Notice of Coverage (NOC) or Voluntary Offer to Sell (VOS) by 30 June 2014. Although a Bill proposing to allow DAR to furnish NOCs and accept VOSes over all remaining private agricultural lands is pending before Congress, until this is passed the DAR will not be able to initiate the LAD, through, among others, the issuance of NOC or VOS, with respect to lands not yet covered thereof or by a case.

It is highly important to note that the issuance of a NOC, per se, is not prohibited. What is not authorized due to the absence of a law, at this stage, is for the DAR to initiate the LAD proceeding over those landholdings not yet covered by a NOC, VOS, or a case after 30 June 2014. Absolutely **nothing in the law prohibits the issuance of NOCs to those landholdings subject of a case as of 30 June 2014.**

As such, the issuance of NOC pursuant to Administrative Order (A.O.) No. 5, Series of 2014 is allowed by Section 30 or R.A. No. 9700. In order, however, to avoid any confusion, this A.O. is issued to change the nomenclature of "NOC" under the said A.O. to "Notice to Proceed".

SECTION 1. The Section 3 of A.O. No. 5, Series of 2014 is hereby amended to read as follows:

SECTION 3. Notice to Proceed. - Upon receipt by the PARPO of the directive to proceed with the preliminary processing, he shall immediately initiate the process of the issuance of a Notice to Proceed particular to this Order. The Notice to Proceed shall be issued in the same manner, and to the same persons, as that of a Notice of Coverage.

The Notice to Proceed shall inform the landowner that the DAR shall proceed with the preliminary processing of the acquisition and distribution of the subject land until the issuance of the Memorandum of Valuation with the attached Land Valuation Worksheet by the LBP, and that it shall proceed thereafter should the Office of the President affirms the decision of the Office of the Secretary in its decision to revoke the Exemption/Exclusion or Conversion Order.

The Notice to Proceed must also state the periods for the LO to file a protest on coverage, nomination of preferred beneficiary/ies, manifestation for exemption/exclusion, and manifestation to exercise the right of retention, as well as to submit a duly attested list of the agricultural lessees, farm workers, and/or tenants in his/her/its landholding, together with the consequences of the failure to exercise the rights during the said periods. The same Notice must state in bold letters that the act of the landowner to nominate preferred beneficiaries, exercise the right of retention, and submit lists of tenants and farm workers shall not prejudice his/her/its legal position in the pending appealed case in the OP.

SECTION 2. The first and third paragraphs of Section 4 of A.O. No. 5, Series of