

[REPUBLIC ACT NO. 7638, December 09, 1992]

**AN ACT CREATING THE DEPARTMENT OF ENERGY,
RATIONALIZING THE ORGANIZATION AND FUNCTIONS OF
GOVERNMENT AGENCIES RELATED TO ENERGY, AND FOR OTHER
PURPOSES**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

**CHAPTER I
General Provisions**

Section 1. *Short Title.* – This Act shall be known as the "Department of Energy Act of 1992."

Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State: (a) to ensure a continuous, adequate, and economic supply of energy with the end in view of ultimately achieving self-reliance in the country's energy requirements through the integrated and intensive exploration, production, management, and development of the country's indigenous energy resources, and through the judicious conservation, renewal, and efficient utilization of energy to keep pace with the country's growth and economic development and taking into consideration the active participation of the private sector in the various areas of energy resource development; and (b) to rationalize, integrate, and coordinate the various programs of the Government towards self-sufficiency and enhanced productivity in power and energy without sacrificing ecological concerns.

Sec. 3. *Definition of Terms.* –

- a. "Energy projects" shall mean activities or projects relative to the exploration, extraction, production, importation-exportation, processing, transportation, marketing, distribution, utilization, conservation, stockpiling, or storage of all forms of energy products and resources.
- b. "Board" shall mean the Energy Regulatory Board.

Sec. 4. *Department of Energy.* – To carry out the above-declared policy, there is hereby created the Department of Energy, hereinafter referred to as the Department, which shall prepare, integrate, coordinate, supervise, and control all plans, programs, projects, and activities of the Government relative to energy exploration, development, utilization, distribution, and conservation.

Sec. 5. *Powers and Functions.* – The Department shall have the following powers and functions:

- a. Formulate policies for the planning and implementation of a comprehensive program for the efficient supply and economical use of energy consistent with the approved national economic plan and with the policies on environmental protection and conservation and maintenance of ecological balance, and provide a mechanism for the integration, rationalization, and coordination of the various energy programs of the Government;
- b. Develop and update the existing Philippine energy program which shall provide for an integrated and comprehensive exploration, development, utilization, distribution, and conservation of energy resources, with preferential bias for environment-friendly, indigenous, and low-cost sources of energy. The program shall include a policy direction towards the privatization of government agencies related to energy, deregulation of the power and energy industry, and reduction of dependency on oil-fired plants. Said program shall be updated within nine (9) months from the effectivity of this Act and submitted to Congress within ten (10) days from its completion and not later than the fifteenth day of September every year thereafter;
- c. Establish and administer programs for the exploration, transportation, marketing, distribution, utilization, conservation, stockpiling, and storage of energy resources of all forms, whether conventional or nonconventional;
- d. Exercise supervision and control over all government activities relative to energy projects in order to attain the goals embodied in Section 2 of this Act;
- e. Regulate private sector activities relative to energy projects as provided for under existing laws: *Provided, That* the Department shall endeavor to provide for an environment conducive to free and active private sector participation and investment in all energy activities.

At the end of four (4) years from the effectivity of this Act, the Department shall, upon approval of the President, institute the programs and timetable of deregulation of appropriate energy projects and activities of the energy industry;

- f. Assess the requirements of, determine priorities for, provide direction to, and disseminate information resulting from energy research and development programs for the optimal development of various forms of energy production and utilization technologies;
- g. Formulate and implement programs, including a system of providing incentives and penalties, for the judicious and efficient use of energy in all energy-consuming sectors of the economy;
- h. Formulate and implement a program for the accelerated development of nonconventional energy systems and the promotion and commercialization of its applications;
- i. Devise ways and means of giving direct benefit to the province, city, or municipality, especially the community and people affected, and equitable preferential benefit to the region that hosts the energy resource and/or the energy-generating facility: *Provided, however, That* the other provinces, cities, municipalities, or regions shall not be deprived of their energy requirements;
- j. Encourage private enterprises engaged in energy projects, including corporations, cooperatives, and similar collective organizations, to broaden the base of their ownership and thereby encourage the widest public ownership of energy-oriented corporations;
- k. Formulate such rules and regulations as may be necessary to implement the objectives of this Act; and

- I. Exercise such other powers as may be necessary or incidental to attain the objectives of this Act.

CHAPTER II

The Department Proper

Sec. 6. *Composition.* – The Department Proper shall be composed of the Office of the Secretary and the Offices of the Undersecretaries and Assistant Secretaries, and the bureaus and services of the Department.

SEC. 7. *Office of the Secretary.* – The Office of the Secretary shall consist of the Secretary and his immediate staff.

Sec. 8. *The Secretary.* – The Secretary shall be appointed by the President, subject to confirmation by the Commission on Appointments.

No officer, external auditor, accountant, or legal counsel of any private company or enterprise primarily engaged in the energy industry shall be eligible for appointment as Secretary within two (2) years from his retirement, resignation, or separation therefrom.

The Secretary shall have the following functions:

- a. Establish policies and standards for the effective, efficient, and economical operation of the Department in accordance with the programs of the Government;
- b. Exercise direct supervision and control over all functions and activities of the Department, as well as all its officers and personnel;
- c. Devise a program of international information on the geological and contractual conditions obtaining in the Philippines for oil and gas exploration in order to advance the industry;
- d. Create regional offices and such other service units and divisions as may be necessary;
- e. Create regional or separate grids as may be necessary or beneficial; and
- f. Perform such other functions as may be necessary or proper to attain the objectives of this Act.

The Secretary shall be an ex officio member of the Board of the National Economic and Development Authority (NEDA). He shall also be a member of the NEDA's Committee on Infrastructure (INFRACOM) and the Investment Coordinating Council (ICC). For this purpose, the provisions of Executive Order No. 292, otherwise known as the Administrative Code of 1987, relative to the creation and organization of the NEDA and its component agencies and offices are hereby modified accordingly.

The Secretary shall also be a member of the body authorized to formulate, prescribe, or amend the necessary guidelines for the financing, construction, operation, and maintenance of infrastructure projects by the private sector, under Republic Act No. 6957, otherwise known as the Build-Operate-Transfer Law.

Sec. 9. *The Undersecretaries.* – The Secretary shall be assisted by three (3) Undersecretaries who shall be appointed by the President upon the recommendation of the Secretary. They shall have the powers and functions as provided for in Section 10, Chapter 2, Book IV of the Administrative Code of 1987.

The Offices of the Undersecretaries shall consist of the Undersecretaries and their respective immediate staff.

SEC. 10. *Assistant Secretaries.* – The Secretary shall also be assisted by three (3) Assistant Secretaries, one (1) for operations, one (1) for policy and programs, and another for administrative services. The Assistant Secretaries shall be appointed by the President upon the recommendation of the Secretary.

S.EC 11. *Qualifications.* – No person shall be appointed Secretary, Undersecretary, or Assistant Secretary of the Department unless he is a citizen and resident of the Philippines, of good moral character, and of proven competence in any of the following fields: (a) energy or utility economics; (b) public administration; (c) physical or engineering sciences; (d) management; or (e) law.

SEC. 12. *Bureaus and Services.* – Subject to the power of the Secretary, with the approval of the President, to reorganize, restructure, and redefine the functions of the bureaus and services for the effective discharge of the powers and functions of the Department under this Act, the Department shall have the following bureaus and services: Energy Resource Development Bureau; Energy Utilization Management Bureau; Energy Industry Administration Bureau; Energy Planning and Monitoring Bureau; and Administrative Support Services.

The bureaus and services shall have the following powers and functions:

a. *Energy Resource Development Bureau -*

1. Assist in the formulation and implementation of policies to develop and increase the domestic supply of local energy resources like fossil fuels, nuclear fuels, and geothermal resources;
2. Assist in the formulation of sectoral programs and plans relative to the exploration, development, and extraction of local energy resources and implement, monitor, and regularly review said programs;
3. Conduct energy research and studies in support of the aforementioned activities;
4. Provide consultative training and advisory services to practitioners and institutions in the areas of regulated activities; and

Assist in the formulation of financial and fiscal policies, rules, guidelines, and requirements relative to the operations of service contractors and implement and enforce said policies.

b. *Energy Utilization Management Bureau -*

1. Assist in the formulation and implementation of policies for the efficient and economical transformation, conversion, processing, refining, marketing, distribution, transportation, and storage of petroleum, coal, natural gas, geothermal, and other nonconventional energy resources such as wind, solar, biomass, and others; and ensure their efficient and judicious utilization;
2. Monitor sectoral energy consumption and conduct energy audits, technical training, energy management advisory services, and technology

- application projects on efficient energy utilization;
3. Develop, promote, and commercialize applications of biomass, solar, small hydro, wind, wood, and charcoal and other nonconventional energy systems including new and more efficient and economical transformation, conversion, processing, refining, marketing, distribution, transportation, and storage technologies for conventional energy resources;
 4. Assist in the formulation of an integrated rural energy program to effectively address the needs of rural development and environmental programs and implement, monitor, and regularly review said program;
 5. Assist in the formulation of an operational plan for the allocation of oil, fuel, and energy sources in the event of the declaration of critically low-energy supply provided for in Section 25 of this Act;
 6. Provide information on energy technology and develop middle- and long-term energy technology development strategies in cooperation with the Department of Science and Technology;
 7. Monitor the implementation of energy projects in coordination with the Department of Environment and Natural Resources to ensure compliance with prescribed environmental standards;
 8. Recommend appropriate courses of action to resolve major issues which may impede energy project siting or result in adverse environmental impact;
 9. Require industrial, commercial, and transport establishments to collect or cause the collection of waste oil for recycling as fuel or lubricating oil; and
 10. Develop and implement a continuing energy conservation program designed to optimize energy utilization, including a nationwide information campaign on energy conservation.

c. Energy Industry Administration Bureau –

1. Assist in the formulation of regulatory policies to encourage and guide the operations of both government and private entities involved in energy resource supply activities such as independent power production, electricity distribution, as well as the importation, exportation, stockpiling, storage, shipping, transportation, refinement, processing, marketing, and distribution of all forms of energy and energy products, whether conventional or nonconventional;
2. Draw up plans to cope with contingencies of energy supply interruptions; and
3. Assist in the formulation of financial and fiscal policies, rules, guidelines, and requirements relative to the operations of entities involved in the supply of energy resources such as oil companies, petroleum product dealers, coal importing and distributing companies, natural gas distributing companies, independent power producers, and all other entities involved in conventional energy supply activities and implement and enforce said policies.

d. Energy Planning and Monitoring Bureau –

1. Assist in the development and updating of an integrated energy plan for the short-, medium-, and long-term periods to provide a comprehensive