

MANILA

PRESIDENTIAL DECREE NO. 972

**PROMULGATING AN ACT TO PROMOTE AN ACCELERATED
EXPLORATION, DEVELOPMENT, EXPLOITATION, PRODUCTION AND
UTILIZATION OF COAL**

WHEREAS, the increasing cost of imported crude oil imposes an unduly heavy demand on the country's international reserves thereby making it imperative for the government to pursue actively the exploration, development and exploitation of indigenous energy resources;

WHEREAS, while coal has been identified as a fossil fuel known to exist in mineable quantities in the country which could provide a viable energy source for some vital industries, large tracts of coalbearing lands have not been explored and mined in a manner and to an extent adequate to meet the needs of the economy;

WHEREAS, the proliferation of fragmented coal permits and leases has prevented, or deterred, the adequate and speedy exploration, development, exploitation and production of indigenous coal resources;

WHEREAS, to develop, achieve and implement a well-planned, systematic and meaningful exploration, development, exploitation and production of local coal resources, participation of the private sector with sufficient capital, technical and managerial resources must be encouraged and the technical and financial capabilities of the coal industry upgraded;

WHEREAS, hand in hand with an accelerated coal exploration, development, exploitation and production program, it is essential that the market for domestic coal production be developed by granting incentives to prospective coal users to convert their facilities for coal utilization;

WHEREAS, to realize the above, it is necessary to amend and/or supplement existing legislation relating to coal;

WHEREAS, Article XVII, Section 12 of the Constitution of the Philippines provides in part that when the National interest so requires the incumbent President of the Philippines or the interim Prime Minister may review all contracts, concessions, permits or other forms of privileges for the exploration, development, exploitation or utilization of natural resources entered into, granted, issued or acquired before the ratification of the Constitution;

NOW, THEREFORE, I, FERDINAND E. MARCOS, by virtue of the powers vested in me by the Constitution of the Philippines, do hereby decree and declare as part of the law of the land the following:

SECTION 1. Short Title. This Act shall be known and may be cited as "The Coal Development Act of 1976."

SECTION 2. Declaration of Policy. It is hereby declared to be the policy of the state to immediately accelerate the exploration, development, exploitation production and utilization of the country's coal resources. A coal development program is therefore promulgated and established by this Decree.

SECTION 3. Coal Development Program. The country shall be divided into coal regions and exploration and exploitation programs shall be instituted and implemented pursuant to this Decree.

These programs shall be geared towards the promotion and development of the necessary technical and financial capability to undertake a work program to effectively explore exploit coal resources.

In recognition, however, of the social constraints that may be encountered in effecting the establishment of coal units in regions where there is high concentration of small coal miners, a special coal program shall be formulated and implemented in coordination with the appropriate government agency/agencies to meet the particular needs of such regions.

SECTION 4. Government to Undertake Coal Exploration Development and Production. The Government, through the Energy Development Board, its successors or assigns, shall undertake by itself the active exploration, development and production of coal resources. It may also execute coal operating contracts as hereafter defined. The active exploration and exploitation of coal resources by the Government or through coal operating contracts may cover public lands, any unreserved or unappropriated coal bearing lands, claims located and recorded by private parties areas covered by valid and subsisting coal revocable permits, coal leases and other existing rights granted by the Government for the exploration and exploitation of coal lands, government mineral reservations, coal areas/mines whose leases or permits are presently owned or operated or held by government-owned or controlled corporations and coal mineable areas operated or held by government agencies.

SECTION 5. Blocking System. The Energy Development Board shall establish coal regions delimiting its extent and boundaries after taking into consideration the various coal bearing lands of the Philippines. Each coal region shall be divided into meridional blocks or quadrangles of two minutes (2') of latitude and one and one-half minutes (1-1/2) of longitude, each block containing an area of one thousand (1,000) hectares, more or less, the boundaries thereof to coincide with the full two minutes and one and one-half minutes of latitude and longitude, respectively, based on the Philippine Coast and Geodetic Survey Map, scale of 1:50,000.

SECTION 6. Coal Contract Area. In conformity with the blocking system herein established, the Energy Development Board shall determine in each coal region

what areas, are available for coal operating contracts. In opening such contract areas, the Energy Development Board may resort to either of the following alternative procedures:

- a. By offering an area or areas for bids, specifying the minimum requirements and conditions in accordance with this Decree; or
- b. By negotiating with a qualified party for a coal operating contract under the terms and conditions provided in this Decree.

No person shall be entitled to more than fifteen (15) blocks of coal lands in any one coal region.

SECTION 7. Existing Permittees/Leaseholders. All valid and subsisting holders of coal revocable permits, coal leases and other existing rights granted by the government for the exploration and exploitation of coal lands or the operators thereof duly approved by the appropriate government agency, shall be given preference in the grant of coal operating contract over the area covered by their permits, leases or other rights subjects to their compliance with the following conditions and guidelines:

- a) Those whose areas fall within a block as described in Section 5 hereof shall organize or consolidate themselves into a coal unit, singly or jointly with valid and subsisting holders of coal revocable permits, coal leases and other existing coal rights or the duly approved operator thereof, of contiguous blocks provided that a coal unit shall not be entitled to more than fifteen (15) blocks of coal lands in any coal region.
- b) Consolidation of areas into coal unit which shall require approval by the Energy Development Board must be completed within a period of six (6) months from the effectivity of this Decree.
- c) In order to qualify for consolidation into coal units, permittees, leaseholders or operators must have complied with the requirements of their existing permits, leases and/or rights as defined under existing laws, rules and regulations.
- d) Members of the coal unit shall agree on the form, terms and extent of participation of its individual members. All holders of valid and subsisting coal revocable permits, coal leases and other existing rights granted by the government for the exploration, development and exploitation of coal lands shall be given percentage interest in the unit or payments out of production under such terms and conditions as may be agreed by the members of the unit and approved by the Energy Development Board.
- e) A coal unit shall enter into a coal operating contract as hereafter provided within six (6) months from its formation.

Coal revocable permits, coal leases and other existing rights granted by the government for the exploration and exploitation of coal lands shall be deemed automatically canceled and the area covered thereby shall revert back to the State for failure of the holders or the qualified operators thereof for any cause whatsoever to consolidate their areas into coal units or secure a coal operating contract within the period specified in this section.

SECTION 8. Coal Operating Contract. Each coal operating contract herein authorized shall, subject to the approval of the President, be executed by the Energy Development Board.

In a coal operating contract, service, technology and financing are furnished by the operator for which it shall be entitled to the stipulated fee and reimbursement of operating expenses. Accordingly, the operator must be technically competent and financially capable as determined by the Energy Development Board to undertake the coal operations as required in the contract.

SECTION 9. Obligations of Operator in Coal Operating Contract. The operator under a coal operating contract shall undertake, manage and execute the coal operations which shall include:

- a) The examination and investigation of lands supposed to contain coal, by detailed surface geologic mapping, core drilling, trenching, test pitting and other appropriate means, for the purpose of probing the presence of coal deposits and the extent thereof;
- b) Steps necessary to reach the coal deposits so that can be mined, including but not limited to shaft sinking and tunneling; and
- c) The extraction and utilization of coal deposits.

The Government shall oversee the management of operation contemplated in the coal operating contract and in this connection, shall require the operator to:

- a) Provide all the necessary service and technology;
- b) Provide the requisite financing;
- c) Perform the work obligations and program prescribed in the coal operating contract which shall be less than those prescribed in this Decree;
- d) Operate the area on behalf of the Government in accordance with good coal mining practices using modern methods appropriate for the geological conditions of the area to enable maximum economic production of coal, avoiding hazards to life, health and property, avoiding pollution of air, land and waters, and pursuant to an efficient and economic program of operation;

e) Furnish the Energy Development Board promptly with all information, data and reports which it may require;

f) Maintain detailed technical records and account of its expenditures;

f) Maintain detailed technical records and account of safety demarcation of agreement acreage and work areas, non-interference with the rights of the other petroleum, mineral and natural resources operators;

h) Maintain all necessary equipment in good order and allow access to these as well as to the exploration, development and production sites and operations to inspectors authorized by the Energy Development Board;

i) Allow representatives authorized by the Energy Development Board full access to their accounts, books and records for tax and other fiscal purposes;

On the other hand, the Energy Development Board shall:

a) On behalf of the Government, reimburse the operator for all operating expenses not exceeding seventy per cent (70%) of the gross proceeds from production in any year: Provided, that if in any year, the operating expenses exceed seventy per cent (70%) of the gross proceeds from production, then the unrecovered expenses shall be recovered from the operating of succeeding years. Operating expenses means the total expenditures for coal operating incurred by the operator as provided in a coal operating contract;

b) Pay the operator a fee, the net amount of which shall not exceed forty per cent (40%) of the balance of the gross income after deducting all operating expenses;

c) Reimburse operating expenses and pay the operator's fee in such form and manner as provided for in the coal operating contract.

SECTION 10. Additional Fee. All valid and subsisting holders of coal revocable permits, coal leases and other existing rights granted by the government for the exploration and exploitation of coal lands or the duly qualified operators thereof who have organized their area into a coal unit may, subject to conditions imposed by the Energy Development Board, be granted in the coal operating contract, in addition to the face provided in Paragraph 2 of Section 9, a special allowance, the amount of which shall not exceed thirty per cent (30%) of the balance of the gross income after deducting all operating expenses.

Coal operating contracts entered into with Philippine citizens or corporations except those already covered under the preceding paragraph, shall be granted a special allowance, the amount of which shall not exceed twenty per cent (20%) of the balance of the gross income after deducting all operating expenses: Provided, that coal operating contracts in which Philippine citizens or corporations have a minimum participating interest of fifteen per cent (15%) in the contract area, may subject to reasonable conditions imposed by the Energy Development Board,

be granted a special allowance not exceeding ten per cent (10%) of the balance of the gross income after deducting all operating expenses.

For the purpose of this section, a Philippine corporation means a corporation organized under Philippine laws at least sixty per cent (60%) of the capital of which, including the voting shares, is owned and held by citizens of the Philippines.

SECTION 11. Minimum Terms and Conditions. In addition to those elsewhere provided in this Decree, every coal operating contract executed in pursuance hereof shall contain the following minimum terms and conditions:

a) Every operator shall be obliged to spend in direct prosecution of exploration work not less than the amounts provided for in the coal operating contract and these amounts shall not be less than the total obtained by multiplying the number of coal blocks or fraction thereof covered by the contract by One Million Pesos (P1,000,000.00) per block annually: Provided, that if the area or a portion thereof is suitable for open pit mining as determined jointly by the operator and the Energy Development Board, the minimum expenditure requirement herein provided may be reduced up to Two Hundred Thousand Pesos (P200,000.00) per block annually. From the time coal reserves in commercial quantity have been determined jointly by the operator and the Energy Development Board, the operator shall undertake development and production of the contract area within the period agreed upon in the contract and shall be obliged to spend in the development and production of the contract area an amount which shall be determined by negotiation between the operator and the Energy Development Board taking into account factors such as measured reserves, quality of coal, mining method and location and accessibility to market: Provided, further, that if during any contract year the operator shall spend more than the amount of money required to be spent, the excess may be credited against the money required to be spent by the operator during the succeeding years, except excess expenditures for exploration cannot be credited against financial commitment for development and production: Provided, further, that should the operator fail to comply with the work obligations provided for in the coal operating contract, it shall pay to the Government the amount it should have spent but did not in direct prosecution of its work obligations: Provided, finally, that except in case of open pit mining, the operator shall drill at least thirty (30) holes per blocks and a minimum footage of exploratory holes before the end of the exploration period as may be specified in the coal operating contract.

b) The exploration period under every coal operating contract shall be for two (2) years. If the operator has complied with its exploration work obligations, the exploration period may be extended for another two (2) years. The coal operating contract shall lapse unless coal of commercial quantity is measured during the exploration period or at the end thereof in any area covered by the coal operating contract. If coal of commercial quantity is measured, the coal operating contract shall remain in force for development and production during the balance of the exploration period and/or for an additional period ranging from ten (10) to twenty

(20) years, thereafter renewable for a series of three (3)-year periods not exceeding twelve (12) years under such terms and conditions as may be agreed upon by the parties.

c) All materials, equipment, plants and other installations erected or placed on the exploration and/or production area of a movable nature by the operator shall become properties of the Energy Development Board if not removed therefrom within one (1) year after the termination of the coal operating contract.

d) The operator shall be subject to the provisions of laws of general application relating to labor, health, safety and ecology insofar as they are not in conflict with the provisions otherwise contained in this Decree.

SECTION 12. Full Disclosure of Interest in Coal Operating Contract. Interest held in the coal operating contract by domestic mining companies and/or the latter's stockholders may be allowed to any extent after full disclosure thereof and approved by the Energy Development Board.

SECTION 13. Arbitration. The Energy Development Board may stipulate in a coal operating contract executed under this Decree that disputes in the implementation thereof between the Government and the operator may be settled by arbitration.

SECTION 14. Performance Guarantee. In order to guarantee compliance with the obligations of the operator executed under this Decree, the operator shall post a bond or other guarantee of sufficient amount in favor of the Government and with surety or sureties satisfactory to the Energy Development Board, conditioned upon the faithful performance by the operator of any or all of the obligations under and pursuant to said coal operating contracts.

SECTION 15. Transfer and Assignment. The rights and obligations under a coal operating contract executed under this Decree shall not be transferred or assigned without the prior approval of the Energy Development Board: Provided, that such transfer or assignment may be made only to a qualified person possessing the resources and capability to continue the mining operation of the coal operating contract and that the operator has complied with all the obligations of the coal operating contract.

SECTION 16. Incentives to Operators. The provisions of any law to the contrary notwithstanding, a contract executed under this Decree may provide that the operator shall have the following incentives:

a) Exemption from all taxes except income tax;

b) Exemption from payment of tariff duties and compensating tax on importation of machinery and equipment and spare parts and materials required for the coal operations subject to the following conditions:

1) that machinery, equipment, spare parts and materials of comparable price and quality are not manufactured in the Philippines;

2) that the same are directly and actually needed and will be used exclusively by the operator in its operations or in operation for it by a contractor;

3) that they are covered by shipping documents in the name of the operator to whom the shipment will be delivered directly by the customs authorities; and

4) that prior approval of the Energy Development Board was obtained by the operator before the importation of such machinery, equipment, spare parts and materials, which approval shall not be unreasonably withheld: Provided, however, that the operator or its contractor may not sell, transfer, or dispose of the machinery, equipment, spare parts and materials without the prior approval of the Energy Development Board and payment of taxes and duties thereon: Provided, further, that should the operator or its contractor sell, transfer, or dispose of these machinery, equipment, spare parts or materials without the prior approval of the Energy Development Board, it shall pay twice the amount of the taxes and duties thereon: Provided, finally, that the Energy Development Board shall allow and approved the sale, transfer or disposition of the said items without tax if made:

(a) to another operator under a coal operating contract;

(b) for reasons of technical obsolescence; or

(c) for purposes of replacement to improve and/or expand the operation under the coal operating contract.

c) Accelerated Depreciation. At the option of the taxpayer and in accordance with the procedures established by the Bureau of Internal Revenue, fixed assets owned by the coal units in the performance of its coal operating contract may be:

1) Depreciated to the extent of not more than twice as fast as normal rate of depreciation or depreciated at normal rate of depreciation if expected life is ten (10) years or less; or

2) Depreciated over any number of years between five (5) years and expected life if the latter is more than ten (10) years, and the depreciation thereon allowed as a deduction from taxable income: Provided, that the taxpayer notifies the Bureau of Internal Revenue at the beginning of the depreciation period which depreciation rate allowed by this section will be used by it.

d) Foreign Loans and Contracts. The right to remit at the prevailing exchange rate at the time of remittance of such sum as may be necessary to cover principal and interest of foreign loans and foreign obligations arising from technological assistance contracts relating to the performance of the coal operating contract, subject to Central Bank regulations.

e) Preference in Grant of Government Loans. Government financial institutions such as the Development Bank of the Philippines, the Philippine National Bank, the Government Service Insurance System, the Social Security System, the Land Bank of the Philippines and other government institutions as are now engaged or may hereafter engage in financing on investment operations shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, accord high priority to applications for financial assistance submitted by operators in the performance of coal operating contracts, whether such financial assistance be in the form of equity participation in preferred, common or preferred convertible shares of stock, or in loans and guarantee, and shall facilitate the processing thereof and the release of the funds therefore. However, financial assistance under this paragraph shall be extended only to operators which are Philippine Nationals as the term is defined under Republic Act No. 5186, as amended.

f) Entry upon the sole approval of the Energy Development Board which shall not be unreasonably withheld of alien technical and specialized personnel (including the immediate members of their families) who may exercise their profession only for the operation of the operator as prescribed in its coal operating contract with the government under this Decree: Provided, that if the employment or connection of any such alien with the operator ceases, the applicable laws and regulations on immigration shall apply to him and his immediate family: Provided, further, that Filipinos shall be given preference to positions for which they have adequate training, and: Provided, finally, that the operator shall adopt and implement a training program for Filipinos along technical or specialized lines, which program shall be reported to the Energy Development Board.

SECTION 17. Incentives to Coal Users. The following incentives shall be granted to enterprises/industries which will convert their existing oil fired plants facilities to make the same adaptable for coal burning:

a) Tax Exemption on Imported Capital Equipment. Within seven (7) years from the date of approval of the plan for conversion of existing oil fired plants and facilities to make the same adaptable for coal burning, the importation of machinery and equipment, and spare parts shipped with such machinery and equipment necessary to implement their program of conversion shall not be subject to tariff and customs duties and compensating tax: Provided, that said machinery, equipment and spare parts are:

1) Not manufactured in the Philippines in reasonable quantity and quality at reasonable prices;

2) Directly and actually needed and will be used exclusively in the implementation of the conversion of existing plants to coal burning;

3) Covered by shipping documents in the name of the enterprise to whom the shipment will be delivered directly by customs authorities;

4) Prior approval, before importation of such machinery, equipment and spare parts was obtained. If imported machinery, equipment and spare parts are sold, transferred or otherwise disposed of without the required prior approval, the importer shall pay twice the amount of the tax and duty thereon. However, the sale, transfer or disposition of the said items shall be allowed and approved without tax and duty if made to another company for use in:

(a) Converting its existing plants to coal burning subject to the same conditions and limitations as herein provided;

(b) For reasons of technical obsolescence; or

(c) For replacement of equipment to improve and/or expand the operations of the enterprise.

For replacement of modernization of existing facilities of subject enterprises/industries which will be utilized partly or entirely in the conversion of coal burning, in lieu of an exemption from payment of tariff duties and taxes, it shall be granted deferment in the payment of such taxes and duties for a period of not exceeding ten (10) years after posting the appropriate bond as may be required by the Secretary of Finance.

b) Tax Credit on Domestic Capital Equipment. Within seven (7) years from the date of approval of the plan for conversion of existing oil fired plants, and facilities to make the same adaptable for coal burning, a tax credit equivalent to one hundred per cent (100%) of the value of the compensating tax and customs duties that would have been paid on machinery, equipment and spare parts necessary to implement the program of conversion had these items been imported, shall be given to the industry with a program of conversion to coal burning that purchases said machinery, equipment and spare parts from a domestic manufacturer: Provided,

1) That said machinery, equipment and spare parts are directly and actually needed and will be used exclusively in the implementation of the conversion of its existing plants to coal burning;

2) That the prior approval was obtained for the purchase of the machinery, equipment and spare parts. If the machinery, equipment and spare parts are sold, transferred or otherwise disposed of without the required prior government approval, the purchaser shall pay twice the amount of the tax credit given to it. However, the sale, transfer or disposition of the said items shall be allowed and approved without tax if made:

(a) To another company for use in its approved program of conversion to coal burning subject to the same conditions and limitations as herein provided;

(b) For reasons of technical obsolescence; or

(c) For purposes of replacement to improve and/or expand the operation of the enterprise.

c) Net Operating Lose Carryover. A net operating loss incurred in any of the first ten (10) years after the start of the implementation of the coal conversion program may be carried over as a deduction from taxable income for the six (6) years immediately following the year of such loss. The entire amount of the loss shall be carried over to the first of the (6) taxable years following the loss, and any portion of such loss which exceeds the taxable income of such first year shall be deducted in like manner from the taxable income of the next remaining five (5) years. The net operating loss shall be computed in accordance with the provision of the National Internal Revenue Code, any provision of this Decree to the contrary notwithstanding, except that income not taxable either in whole or in part under this or other laws shall be included in the gross income.

d) Capital Gains Tax Exemption. Exemption from income tax on the proceeds of the gains realized from the sale, disposition or transfer of capital assets which are sold or disposed of as a result of the conversion of facilities to a coal burning plant: Provided, that such sale, disposition or transfer are registered with the Bureau of Internal Revenue: Provided, however, that the gains realized from the subject sale, disposition or transfer of capital assets are invested in new issues of capital stock of an enterprise registered under the Investment Incentives Act, as amended, and other allied incentives laws: Provided, further, that the shares of stock representing the investment are not disposed of, transferred, assigned, or conveyed for a period of seven (7) years from the date the investment was made: and, Provided, finally, that if such shares of stock are disposed of within the said period of seven (7) years, all taxes due on the gains realized from the original transfer, sale, or disposition of the capital assets shall become immediately due and payable.

e) Accelerated Depreciation. At the option of the taxpayer and in accordance with the procedure established by the Bureau of Internal Revenue, fixed assets used by the industry in carrying out the program of conversion to coal burning may be:

1) Depreciated to the extent of not more than twice as fast as normal rate of depreciation or depreciated at normal rate of depreciation if expected life is ten (10) years or less; or

2) Depreciated over any number of years between five (5) years and expected life if the latter is more than ten (10) years, and the depreciation thereon allowed as a deduction from taxable income: Provided, that the taxpayer notifies the Bureau of Internal Revenue at the beginning of the depreciation period which depreciation rate allowed by this section will be used by it.

f) Foreign Loans and Contracts. The right to remit at the prevailing exchange rate at the time of remittance such sum as may be necessary to cover interest and principal of foreign loan and foreign obligations arising from technological

assistance contracts relating to the implementation of the program of conversion to coal burning subject to Central Bank regulation.

g) Preference in Grant of Government Loans. Government financial institutions such as the Development Bank of the Philippines, the Philippine National Bank, the Government Service Insurance System, the Social Security System, the Land Bank of the Philippines and such other government institutions as are now engaged or may hereafter engage in financing of investment operations shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, accord high priority to application for financial assistance submitted by enterprises/industries requiring funding to implement the program of conversion to coal burning, whether such financial assistance be in the form of equity participation in preferred, common or preferred convertible shares of stock, or in loans and guarantee, and shall facilitate the processing thereof and the release of the funds therefore; However, financial assistance shall be extended only under this paragraph to industry converting to coal burning which is a Philippine National as this term is defined under Republic Act No. 5186, as amended.

The foregoing incentives to enterprises/industries which will convert their existing oil fired plants and facilities to make the same adaptable for coal burning shall be administered and implemented by the Board of Investments created under Republic Act No. 5186, also known as the Investment Incentives Act, as amended. The Board of Investments shall have the power to process and approved, under such terms and conditions as it may deem necessary, plans for conversion to coal burning and applications for availment of the foregoing incentives. It shall promulgate such rules and regulations as may be necessary to implement the intent and provisions of this section.

SECTION 18. Implementing Agency. Except as otherwise provided in Section 17 hereof, the Energy Development Board, created pursuant to Presidential Decree No. 910, in addition to the powers, duties and functions under existing laws, shall be charged with carrying out the provisions of this Decree and shall be vested with the authority to promulgate rules and regulations implementing thereof.

SECTION 19. Separability Clause. Should any provision of this Decree be held unconstitutional, no other provision hereof shall be affected thereby.

SECTION 20. Repealing Clause. The provisions of Presidential Decree No. 463, otherwise known as the "Mineral Resources Development Decree of 1974" and other laws insofar as they deal, relate or affect the exploration, exploitation and administration of coal lands are hereby repealed. Furthermore, all laws, decrees, executive orders, administrative orders, rules, and regulations, or parts thereof in conflict or inconsistent with any provision of this Decree are hereby repealed, revoked, modified or amended accordingly.

SECTION 21. Effectivity. This Decree shall take effect immediately upon approval.

Done in the City of Manila, this 28th day of July, in the year of Our Lord, nineteen hundred and seventy-six.

RULES AND REGULATIONS IMPLEMENTING PRESIDENTIAL DECREE NO. 972, OTHERWISE KNOWN AS THE "COAL DEVELOPMENT ACT OF 1976"

Pursuant to the Presidential Decree No. 972, otherwise known and cited as the "Coal Development Act of 1976", the following rules and regulations to implement the intent and provisions of the Act are hereby promulgated: cud

I. Registration

A. Coverage and Period. All holders of coal permits, leases, locations, patents, mining grants or concessions, applications and other existing rights granted by the government for the exploration, development and exploitation of coal lands and/or the duly authorized operators thereof shall register their permits, leases, locations, patents, mining grants or concessions, applications and other rights with the Energy Development Board within thirty (30) days from the date hereof.

B. Requirement of Registration. The registration contemplated in Paragraph A hereof shall require the accomplishment and submission to the Energy Development Board of the attached EDB Form No. 11 (Information Sheet, Attachment "A"). The Information Sheet and all accompanying annexes and exhibits shall be verified (under oath) by the holder of the permit, lease, patent, location, concession or grant and application in cases of an individual or by a responsible officer thereof in cases of partnership, corporations or cooperatives. The Information Sheet shall serve as the basis for the evaluation of the status and work performance of the holders or operators to determine compliance with the requirements of their existing permits, leases, locations, grants, patents, concessions, applications and other rights under laws, rules and regulations then in force.

C. Effect of Failure to Register. Failure to comply with the registration required herein shall be deemed to constitute a waiver of rights and shall result in automatic cancellation or termination of holder's or operator's right in any coal permit, lease, location, patent, mining grant or concession, application and other rights.

D. Place of Filing. The Information Sheet and all accompanying annexes and exhibits shall be filed with the offices of the Energy Development Board at the Philippine National Petroleum Center, Merrit Road, Fort Bonifacio, Rizal or at the Energy Development Board Cebu Office situated at barrio Opao, Mandaue City.

II. Blocking System

A. Coal Regions. The following coal regions in the Philippines (see attached map, Attachment "b") are hereby established:

1. Cagayan Region
2. Ilocos Region
3. Central Luzon Region
4. Bondoc Peninsula Region
5. Bicol Region
6. Catanduanes Region
7. Samar-Leyte Region
8. Cebu Region
9. Negros Region
10. Panay Region including Semirara Island
11. Mindoro Region
12. Agusan-Davao Region
13. Surigao Region
14. Cotabato Region
15. Zamboanga Regions

Additional coal regions may be established by the Energy Development Board when attendant circumstances justify and warrant it.

B. Guidelines on Use of the Blocking System

1. Each of the above coal regions is divided into meridional blocks or quadrangles of two minutes (2') of latitude and one and one-half minutes (1-1/2') of longitude, each block containing an area of one thousand (1,000) hectares, more or less. The boundaries of the block must coincide with the defined latitude and longitude in the Energy Development Board Coal Blocking Maps (Scale 1:50,000) plotted on the Coast and Geodetic Survey maps.
2. This blocking system shall apply to areas being organized and consolidated into a coal unit as well as free areas. No person, partnership or corporation shall be entitled to more than fifteen (15) blocks of coal land in any one coal region.

3. A coal unit shall conform to the blocking system as closely as possible with its final configuration arrived at by both the permittee/leaseholder/applicant and the Energy Development Board but always subject to the final approval of the latter.
4. Any specific problem that may arise which is not presently covered by these guidelines will be considered on a case-to-case basis, e.g. inability to conform to the blocking system due to position of adjoining coal units, etc.
5. The ground survey for locating the coal blocks herein established shall be done by the Energy Development Board at the expense of the permittee/leaseholder/applicant or by the latter when so authorized by the Energy Development Board. The corners of each block shall be marked by appropriate survey monuments. The survey plans shall be submitted to the Energy Development Board for verification and approval within one (1) year from the effective date of the coal operating contract, a requirement which shall be included as one of the obligations of the operator in coal operating contract.
6. Maps pertinent to the blocking system may be purchased at P50.00 per sheet at the Energy Development Board Office at the Philippine National Petroleum Center, Merritt Road, Fort Bonifacio, Rizal. The Energy Development Board maintains exclusive rights over the printing and sale of these maps and no map or any portion thereof may be reproduced without the permission of the Board.
7. These maps are considered official maps and shall form part of the official application paper that an applicant for a coal operating submits to the Board.

III. Survey of Coal Blocks

A. Period of Survey. Ilocos Sur Ordinance. Within one (1) year from the effective date of the coal operating contract, the operator shall conduct the survey of the coal blocks which constitute the coal contract area of the coal operating contract. The survey shall be conducted in accordance with the regulations hereunder provided.

B. Documents to Accompany Application for a Coal Operating Contract Necessary for Survey of Coal Blocks. The following documents shall be submitted upon filing of the application for a coal operating contract:

1. A notarized survey service contract executed by and between the applicant and a duly licensed geodetic engineer which shall stipulate, among others, the following:
 - a) The names of the contracting parties.
 - b) The coal sought to be surveyed.
 - c) The consideration or contract price and mode of payment of the same.

d) The date of the submittal of the survey returns to the Energy Development Board.

2. Affidavit of the duly licensed geodetic engineer representing that he can execute the survey of the coal blocks and submit the returns thereof within one (1) year from the effectivity date of the coal operating contract.

C. Abandonment. Failure to perform the ground survey for the coal blocks within one (1) year from the effective date of the coal operating contract shall constitute automatic abandonment of the coal block and the land embraced therein shall thereupon be opened to application for another coal operating contract by qualified persons.

D. Qualified Geodetic Engineers. Coal block surveys shall be executed by geodetic engineers of the Energy Development Board or by any duly licensed geodetic engineers.

E. Cost of Survey. If the Ground survey shall be undertaken by a geodetic engineers of the Energy Development Board, the applicant shall pay the actual cost of the survey.

F. Execution of Coal Block Survey. Corners of the coal block shall be defined by monuments placed at intervals of not more than four hundred (400) meters apart. When the boundary lines of the coal block pass across mountains or rolling terrains, the intermediate monuments between corners shall be established on ridges, whenever practicable, in which case, all consecutive corner monuments shall be intervisible. The sizes of corner monument of a coal shall be as follows:

1. Corners (principal corners) that fall on points with exact two minutes and/or one and one-half minutes of latitude and longitude, 20 cm. x 20 cm. concrete monuments shall be set 50 cm. in the ground.

2. Other concerns of the coal block shall by cylindrical concrete monuments of 15 cm. in diameter x 60 cm. long set 50 cm. in the ground.

The corners of the coal block shall be concrete monuments or cement patch on boulder, centered with a hole, spike, pipe or nail and marked with the corresponding corner number and coal block number. The latitude and longitude of the principal corner shall also be indicated on the sides of the concrete monuments when it coincides with the full two minutes and/or one and one-half minutes of latitude and longitude, respectively.

When the coal block undergoing survey adjoins submerged land, a witness corner monument along the boundary leading the shoreline shall be set on the ground to witness the boundary-point-corner of the coal block at the low tide level of the sea or lake. Concrete monuments, galvanized iron pipes, fixed rocks, boulders or stakes and other monuments shall be set to define the corners of the coal block along the shoreline at low tide level.

All computations, plans and maps of coal blocks surveys to be submitted to the Energy Development Board for verification and approval shall be prepared by using the Philippine Plane Coordinate System.

The characteristics of the Philippine Plane Coordinate System as used in the DANR Technical Bulletin No. 26 are as follows:

Spheroid - Carke's Spheroid of 1865.

Projection - Transverse Mercator in zones of two degrees (2°) net width.

Point of Origin - The intersection of the equator and the central meridian of each zone, with a northing of 0.00 meter and an easting of 500,000.00 meters.

Scale factor of the Central Meridian - 0.99995 zonification.

NOTE: The overlap of 30 minutes thereof, however is reduced

to 5 minutes which are as follows:

Zone No.

I 117-00 E 16-00 to 118-05 E

II 119-00 E 117-55 to 120-05 E

III 121-00 E 119-55 to 122-05 E

IV 123-00 E 121-55 to 124-05 E

V 125-00 E 123-55 to 126-05 E

The tables in the DANR Technical Bulletin No. 26 and EDB Form No. 12 and EDB Form No. 13 hereto attached as Attachment "C" and "D", respectively, and part of these Regulations shall be used for the transformation of geographic to plane coordinates, and from plane to geographic coordinates.

In all coal block surveys, the corresponding central meridian of the zone where the coal block is situated shall be used and the amount of convergency correction in seconds of arc from the central meridian to be applied to the observed astronomical azimuth of the line shall be, for all practice purposes, the product of the departure of the point of observation from the central meridian in kilometers and the number of seconds of angular convergency per kilometer of departure corresponding to the latitude of the place of observation which are tabulated as follows:

Latitude Angular Convergency

in Seconds of Arc per

Kilometer of Departure

5° 2.83

6° 3.40

7° 3.97

8° 4.55

9° 5.12

10° 5.70

11° 6.29

12° 6.87

13° 7.46

14° 8.06

15° 8.66

16° 9.27

17° 9.88

18° 10.50

19° 11.13

20° 11.76

21° 12.41

The angular convergency correction, expressed in seconds, shall be added to the observed astronomical azimuth for points west and subtracted for points east of the central meridian.

All bearing of lines and coordinates of corners not in accordance with the Philippine Plane Coordinate System as used in the area computations of surveyed coal block that are within 150 m. from the periphery of the coal block undergoing survey shall be transformed to the Philippine Plane Coordinate System.

The zone number and central meridian of the Philippine Plane Coordinate System shall, in all cases, be indicated on the fieldnotes, computations, plans, maps, and reports of the surveys.

For higher precision of surveys, convergency corrections, scale factors and azimuth correction (T-t) shall be referred from the formula used in the table of DANR Technical Bulletin No. 26, however, for tertiary precision of surveys, the scale factors and the azimuth correction (T-t) may be discarded.

Coal block surveys shall be definitely fixed in position on the earth's surface by monuments of prominent and permanent structure marking corner points of the coal block and by bearings and distances from the points of known geographic or Philippine Plane Coordinate System.

These tie points shall either be as follows:

1) Triangulation stations established by:

a) The Bureau of Coast and Geodetic Survey.

b) The United States Army Engineer Survey.

c) The 29th Engineer Topographic (Base) Battalion.

d) The Bureau of Lands.

e) The Bureau of Mines.

f) Other organizations, the survey of which is of acknowledged standard.

2) Bureau of Lands Location Monuments (BLM) and Bureau of Lands Barrio Monuments (BLBM) established by the Bureau of Lands.

3) Political Boundary Monuments such as Provincial Boundary Monuments (PBM), Municipal Boundary Monuments (MBM) and Barrio Boundary Monuments (BBM): Provided, That they were established by Cadastral Land Surveys, Group Settlement Surveys or Public Land Subdivision Surveys of the Bureau of Lands.

4) Bureau of Mines Reference Points (BMRP) monuments established by the Bureau of Mines.

5) Church cross, church spire, church dome, church tower, historical monument of known geographic or Philippine Plane Coordinate System acknowledged by the Bureau of Coast and Geodetic Survey, Bureau of Lands or Bureau of Mines.

6) Corners of approved coal block surveys with known geographic and/or Philippine Plane Coordinate Systems may be used as starting point of a coal block survey: Provided, however, That at least three (3) or more undisturbed corners of concrete monuments are surveyed for a good common point and the tie is computed from the tie point of the aforesaid approved surveys.

Should any discrepancy of datum plane between or among tie points arise, proper investigation shall be conducted by the authorized geodetic engineer and a report thereon shall be submitted to the Energy Development Board to form part of the survey returns for further investigation and record purposes.

Plans of coal blocks recorded under the Act shall correctly and neatly drawn to scale in drawing inks on the survey plan.

The latitudes and longitudes of the meridional blocks shall be drawn to scale on the plan whenever practicable, in light black inks.

In addition to the symbols used to designate various kinds of surveys, the survey symbol CBS shall be used to designate a Coal Blocks Survey.

The manner of execution of coal land surveys shall be in accordance with these Regulations, as supplemented by the Manual of Regulations for Mineral Land Surveys in the Philippines promulgated on June 22, 1965 and the Philippine Land Surveyors Manual (Technical Bulletin No. 22, Bureau of Lands, July 1, 1955), as far as the provisions thereof are not inconsistent with the Decree.

G. Submittal and Verification of Survey Returns. Survey returns coal block shall be submitted to the Energy Development Board within one (1) year from effective date of the coal operating contract and shall consist of the following:

1. Field notes completely filled in, paged and sealed (G.E.) and fieldnotes cover on EDB Form No. 14 hereto attached as Attachment "E", and made part of these regulations, duly accomplished, signed and sealed by the geodetic engineer and notary public.

2. Azimuth computations from astronomical observations, traverse computations, area computations, elevation and topographic survey computations and other reference computations all in original and in duplicate properly accomplished and signed by the computer and the geodetic engineer.

Computerized (EDP) computations, however, may be submitted in place of the duplicate computations.

3. Tracing cloth plan/s duly accomplished with the corresponding working sheet thereof.

4. Descriptive and field investigation report on the coal block in quintuplicate duly signed by the geodetic engineer and authorized assistant, if any, and duly notarized.

5. A consolidated plan at scale at 1:4,000 showing the relative positions of the surveyed coal blocks and other coal blocks with existing rights at the time of the survey, if any.

6. Other documents pertinent to the survey of coal blocks.

Survey returns without items (1) to (6) above, shall not be accepted for verification and approval purposes.

Concerns and/or location monuments of approved surveys of coal blocks in spite of the nullity, cancellation, rejection or abandonment of the coal operating contract over the surveyed area, shall be preserved as reference mark and the geographic position thereof shall be kept for use in future coal block surveys, unless otherwise said survey is found to be erroneous by later approved coal block surveys.

Surveys of subsisting coal blocks rights, permits and leases which are to be erroneous may be ordered by the Energy Development Board to be corrected motu proprio, when justified by existing circumstances.

IV. Procedure of Filing an Application for Negotiated Coal Operating Contract Under Presidential Decree No. 972.

In addition to the documents required to be submitted in the preceding section, the following documents shall accompany all applications for a coal operating contract:

- a) Information Sheet for Coal Operators (EDB Form No. 11).
- b) Proposed Coal Operating Contract Patterned after the Model Contract (EDB Form No. 15).
- c) A Comparative Analysis in tabulated form of items in the Coal Operating Contract Proposal which deviate from the Model Contract. Reasons for the proposed changes should likewise be presented.
- d) In cases of a corporation, a Certificate of Authority from the Board of Directors of applicant Operator authorizing a designated representatives/representative to negotiate the Coal Operating Contract. The certification must be executed under oath by the Corporate Secretary and if executed abroad, must be properly authenticated. In cases of partnership or other forms of association, a duly authorized representative/s negotiate the Coal Operating Contract by the partners or members thereof.
- e) Copies of all technical reports or works done on the proposed coal contract areas, whenever available.

The applicant shall pay a processing fee of P1.00 per hectare but in no case less than P1,000.00 for the proposed coal contract area. Check should be made payable to the Energy Development Board. No negotiations can commence until the above requirements have been fully complied with.

V. Publication and Effectivity.

These rules and regulations shall take effect immediately.

Copies thereof shall be published in newspapers of general circulations in the Philippines.

Done in Makati, Metro Manila, on August 27, 1976.