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GUIDELINES FOR COAL OPERATIONS IN THE PHILIPPINES

**MINISTRY OF ENERGY
Bureau of Energy Development**

26 November 1981

CIRCULAR NO. 81-11-10

TO: ALL APPLICANTS FOR AND HOLDERS OF COAL OPERATING
CONTRACT UNDER PRESIDENTIAL DECREE NO.972
AS AMENDED

Recent developments in the industry prompted the Bureau of Energy Development to update its rules and regulations to effectively perform its mandated task of overseeing and monitoring coal operations in the country.

The accompanying manual entitled GUIDELINES FOR COAL OPERATIONS IN THE PHILIPPINES sets out the Bureau's revised rules and regulations which were evolved after a working dialogue with the Philippine Chamber of Coal Mines, Inc.

The manual likewise codified provisions of previously issued circulars which are still in force and effect.

The manual is divided into five (5) Chapters as follows:

- | | |
|---------------|---|
| Chapter One | Guidelines for Filing and Processing
Application for Coal Operating Contract |
| Chapter Two | Performance Guaranty |
| Chapter Three | Guidelines on Financial Operations |
| Chapter Four | Guidelines on Technical Operations |
| Chapter Five | Other Provisions |

Any clarification and/or questions concerning these rules and regulations should be directed to the following Divisions of the Bureau of Energy Development:

- | | |
|---------------------------------|---|
| Legal & Negotiation
Division | For matters affecting Chapters
One and Five |
| Compliance Division | For matters affecting
Chapters Two and Three |
| Technical Division | For Chapter Four |

These rules and regulations shall take effect on the date they were first issued.

W. R. DE LA PAZ
Acting Director

JCS:

CHAPTER ONE
**GUIDELINES FOR FILING AND PROCESSING
APPLICATION FOR COAL OPERATING CONTRACT**

Section I
Procedures for Filing Application

Parties interested in coal mining may file their application for Coal Operating Contract *provided* that their working capital would amount to at least P 1 million for every block applied for, with respect to underground mining; or P 200,000 per block for strip mining. It should be understood, however, that compliance with this initial working capital requirement gives the applicant only the right to file its application. This initial compliance does not automatically give the applicant any priority right over the area nor assure the award of a contract. To be entitled to processing and negotiation of the proposed coal operating contract, the applicant *must* meet all the administrative, financial and technical requirements described in Section III hereof.

Application for an exploration contract shall cover a minimum of three (3) coal blocks unless the applicant can prove to the satisfaction of the Department of Energy that there are valid geological and technical considerations to warrant an application for a lesser number of coal blocks.

The applicant should strictly observe the following:

- A. Accomplish application for Coal Operating Contract (BED-N-Coal-1) in three (3) sets. (Refer to Section II for procedure for accomplishing BED-N-Coal-1).
- B. Submit application, preferably in person or thru authorized representative(s) directly to the Director of the Energy Resource Development Bureau (ERDB), Attention: Compliance and Negotiations Division. In case of application received through mail, BED will notify applicant whether or not the application is complete in all respect and the same has been considered filed. BED will also communicate to applicant the assigned number of its application, which together with the time and date the application was received will establish the order of processing the BED will observe. Official Receipt for payment of filing fee will be forwarded to applicant.

(An applicant is not considered filed and will not be registered unless application forms are properly accomplished, the required information and annexes are submitted; and the filing fee is paid).

- C. Pay filing fee of P30,000/block or fraction thereof. Check should be made payable to the Department of Energy. Filing fee paid for application rejected

upon filing is *neither refundable nor transferable* to subsequent or other applications filed. Applicants are therefore advised to consult the Compliance and Negotiations Division first before paying the filing fee.

D. Have application registered and secure application number.

Section II *Guidelines for Accomplishing BED N-Coal-1 and Annexes*

Applicant should fill in and submit *all* the information and annexes required under BED-N-Coal-1. Incomplete and/or improperly accomplished application will not be considered as having been filed and the same will be automatically rejected. Piecemeal submission of the initially required information and/or documentary records will not be allowed.

With regards to the annexes required under BED-N-Coal-1, the following must be observed:

- A. *Articles of Incorporation and Certificate of Registration* – must be duly certified by the Securities and Exchange Commission.
- B. *Coal Operating Contract Proposal* – should be patterned after BED’s Model Coal Contract (BED-N-Coal-2) and Model Accounting Procedures (BED-N-Coal-3).
- C. *Deviations from Model Contract* (BED-N-Coal-4) – should show a comparative analysis, in tabulated form, of items in the Coal Operating Contract Proposal, which deviated from the Model Contract and Accounting Procedures.

Reasons for the proposed changes should likewise be presented.

- D. *Proposed Work Program* – for exploration, use BED-N-Coal-1. It should be accompanied by a geological report, signed by a licensed geologist, on the proposed contract area, containing among others the necessary geological evidence of the occurrence of coal deposits in the area.

For application for development/production contract, accomplish BED-TD-Coal-2. It should be accompanied by a feasibility study containing, among others, the details of mining method, equipment specifications, safety and ventilation plans and detailed estimate of mineable reserves.

In either case, the work program should be prepared on a *calendar period basis* but in no case should the total period be more than two (2) years for exploration and five (5) years for development/production contract. The work

program should be *current* at the time of the signing of the contract. The applicant must therefore consider the processing time in the preparation of the work program. Normally, it will take BED sixty (60) days to process the application, and negotiate all the financial, administrative and technical requirements of the Department. Thus, the work program of an application for exploration contract filed, say, on July 1, 1981 should have the following periods:

	<i>No. of Months</i>
September - December, 1981	4
1982	12
January - August, 1983	8
	24

The foregoing principle should also be observed in the preparation of development/production work program.

E. *Financial Statements* – should be audited by a reputable accounting firm or C. P. A. IF latest audited financial statements are more than sixty (60) days old at the time of filing, submit an unaudited financial statement as of the date of filing or dated within thirty (30) days to date of filing and a statement of changes in working capital between the two financial statement dates.

F. *Cash Flow Statements* –

In general, the data should be taken from the applicant's projected financial statements and work program. The beginning cash balance should be taken from the financial statements submitted for evaluation.

Loan amortization should segregate amount of principal and interest. Funds to be provided through loan should be substantiated with bank certification or available credit lines and current status of loans.

For development/production contracts, the cash flow statement should accompanied by a projected income statement, together with an explanation and/or justification of assumptions used.

Section III *Processing Requirements*

BED will consider a field application for processing if it meets the following requirements:

A. *Financial and Administrative Requirements:*

1. The applicant must have:
 - a. Available working capital equivalent to at least 150% of the amount of the work program approved by BED for the initial year of the contract. Provided, however, that in no case should the working capital be less than the initial minimum requirement for filing an application under Section I of this chapter.

“Available Working Capital” in the concept of this Section refers to the applicant’s net current assets (current assets less current liabilities) consisting primarily of cash, temporary investments (marketable securities), and short term trade receivables, which are *free* for investment in coal operation. It should be net of the applicant’s firm contractual commitment either in other service contracts with BED or with other agencies of the government. In cases wherein the applicant is engaged in business other than coal at the time of the filing of the application, the available working capital shall be net of the requirements for the other business;

- b. Current ratio 1.5:1; and
- c. Debt to Equity Ratio of 3:1

It is understood that the above-stated minimum financial position would merely support the work program for the first year of the coal operating contract. Therefore, the prospective operator should, likewise be able to demonstrate its capability to raise additional working capital to fund the succeeding work program provided in the coal operating contract.

2. The applicant-company must have employed a full time certified public accountant and administrative assistant, both having at least 2 years work experience.
3. For a joint application, the operator of the proposed coal operating contract must possess all the financial, administrative, and technical requirements as described above and in Section 1.3 below. On the other hand, the non-operators should have minimum working capital equivalent to its interest in the proposed contract.
4. To assist BED in determining applicant’s compliance with the foregoing guidelines, the following must be submitted. (Refer to Section II for guidelines):
 - a. A certified true copy of the Articles of Incorporation.

- b. Audited and/or unaudited Financial Statements.
- c. Statement of Changes in Working Capital.
- d. Cash Flows Statement.
- e. A chart of organization for finance and administration together with the curriculum vitae of the incumbent staff.

B. *Technical Qualifications*

The applicant must establish the following minimum requirements:

1. Have employed a full time geologist or licensed mining engineer with at least two (2) years experience in exploration and one (1) contractual or full time geodetic engineer.
2. Provide complete coverage of services and technical expertise required during actual operation. In this connection, applicant's consulting engineers should not work for more than six (6) coal companies.
3. Owned or contracted at least one (1) drill rig for the exclusive use of the operations contemplated in the coal operating contract applied for. It is understood that all supportive equipment and materials shall be made available by the applicant during the entire period of the contract.

In the case of contracted drill rigs, the applicant should show that he has contracted at least 50% of the drilling commitments for the 1st year.

4. For application for development and production contracts, strict observance of Rep. Act No. 4274 known as "An Act to Regulate the Practice of Mining Engineering to Provide Licensing and Registry of Personnel Mines and Quarries and for other Purposes," especially Sec. 25 of Art. III, which states that every mining works, projects, and/or quarrying operations shall have *not less than* the following complement of resident engineers and/or foreman duly registered under this Act:
 - a. Proposed Work Program.
 - b. Chart of Organization for Technical Operations together with the curriculum vitae of incumbent technical personnel.
 - c. Evidence of ownership of drilling equipment.

- d. List of company owned equipment available for coal operations.
- e. For exploration contracts, a geological report on the proposed contract area.
- f. For development/production contract, a feasibility study on the proposed coal operation.

Section IV
Negotiation of Contract Proposal

No proposed coal operating contract will be negotiated unless the applicant has met all the financial, administrative and technical requirements of the Energy Resource Development Bureau.

Negotiation will be conducted by the Energy Resource Development Bureau only with the applicant or his duly authorized representatives(s). Authorization to deal with BED on matters relating to the proposed contract should be covered by Board resolutions. Within five (5) days from conclusion of negotiation, the applicant must submit seven (7) copies of a clean draft of the negotiated contract.

Section V
Signing of Contract

A negotiated contract can be signed *only* upon receive of Presidential approval authorizing the Department of Energy to sign the contract. The date and time of signing of the contract will be set by the Energy Resource Development Bureau *provided* applicant has complied with the bonding requirements of the negotiated contract. If within thirty (30) days from date of notice, the applicant failed to submit the required performance guarantee, the Energy Resource Development Bureau will disregard the negotiated contract and open the area for new applications.

CHAPTER TWO PERFORMANCE GUARANTEE

Section I *General Provisions*

The performance guaranty should be posted before the signing of the coal operating contract. It shall be in US dollars for foreign coal operators and in Philippine Peso for Filipino coal operators. Unless otherwise specified by the Energy Resource Development Bureau, the initial amount of the guaranty shall be equal to the first year financial commitment of the operator. Subsequent thereto the amount of guaranty may be increased or decrease depending upon the operator's performance of its financial and work commitments.

Section II *Acceptable Performance Guaranty*

A. *Irrevocable Stand-by Letter of Credit*

Use BED-CD-Coal-1 for foreign letter of credit and BED-CD-Coal-2 for domestic letter of credit.

B. *Bank Guaranty*

Both the letter of credit and bank guaranty should be issued by reputable banking institutions.

C. *Performance Bond*

Use BED-CD-Coal-3. Only performance bonds issued by insurance companies duly accredited by the Energy Resource Development Bureau will be accepted. In this connection, as of June 30, 1981, the insurance companies listed in Exhibit A have been duly accredited by the Energy Resource Development Bureau. The accreditation, however, is good for only a period of six (6) months. Thereafter, coal operators are hereby required to clear with the Energy Resource Development Bureau whether any new performance bond issued by the said insurance companies would still be acceptable to the Energy Resource Development Bureau.

The coal operator may submit to the Energy Resource Development Bureau the latest financial statements (preferably as of the end of the month preceding the date of submission) of any bonding company not listed herein for accreditation.

D. *Other Guaranty*

As a matter of policy, posting of guaranty other than the irrevocable domestic stand-by letter of credit, bank, guaranty, and performance bond shall apply only to development and production contracts.

The following constitute other guarantee acceptable for purposes of complying with the bonding requirements of the coal operating contract (development and production).

Nature	Amount to be considered
1. Unencumbered mining equipment	80% of the net book value at the time of equipment is pledged/mortgaged as guaranty.
2. Unencumbered land	100% of acquisition cost
3. Unencumbered investment	100% of the face value of security
4. Money market placements	100% of the face value of security

All pertinent documents attesting to the ownership of any of the above assets shall be submitted to the Energy Resource Development Bureau for review and validation. Also, the operator shall execute a mortgage and/or pledge agreement.

Exhibit A

LIST OF APPROVED BONDING COMPANIES

As of June 30, 1981

- | | |
|--|--|
| 1. Allied Guarantee Insurance Co., Inc. | 16. Universal Insurance & Indemnity Co. |
| 2. Commonwealth Insurance Co. | 17. Phil. House Assurance Corporation |
| 3. Domestic Insurance Co. of the Philippines, Inc. | 18. Empire Insurance Co. |
| 4. Government Service Insurance System | 19. Fidelity & Surety Co. of the Philippines |
| 5. FGU Insurance Corporation | 20. Luzon Surety Co., Inc. |
| 6. Malayan Insurance Co., Inc. | 21. Paramount Insurance |
| 7. Metropolitan Insurance Co., Inc. | 22. Rizal Surety and Insurance Co. |
| 8. Philamgen Insurance Co. | 23. Tabacalera Insurance Co., Inc. |
| 9. AFIA Worldwide Insurance | 24. Central Surety |
| 10. Philippine Guarantee Co., Inc. | 25. Fortune Insurance |
| 11. Provident Insurance Co. of the Philippines | 26. Northwest Insurance |
| 12. Pan-Malayan Insurance Co. | 27. Premier |
| 13. Philam Assurance Co., Inc. | 28. Communications Insurance (Sunflower) |
| 14. Pioneer Insurance & Surety Corp. | 29. Standard Insurance |
| 15. State Bonding & Insurance Co., Inc. | 30. Utility Assurance |

**CHAPTER THREE
GUIDELINES ON FINANCIAL OPERATIONS**

Section I
General Provisions

The guidelines contained herein relates to the accounting of proceeds from production and the reporting of expenditures on various exploration and/or development activities.

It should be noted that the provisions/requirements present in Circular 13, series of 1977 issued in December, 1977 and Circular 81-05-04 issued on May 19, 1981, which were not amended have been retained and re-reiterated herein.

The number of the following forms has been changed:

Form	From	To
A. Monthly Coal Inventory/ Production/Sale Report	EDB Form No. 17	BED-CD-Coal-4
B. Coal Exploration /Development /Production Summary Investment and Recoverable Cost	BED-CD-Coal-1	BED-CD-Coal-6
C. Depreciable/Amortizable Assets	BED-CD-Coal-2	BED-CD-Coal-7
D. Exploration and Development Expenditures Summary	BED-CD-Coal-3	BED-CD-Coal-8
E. Production and Marketing Expenditure Summary	BED-CD-Coal-4	BED-CD-Coal-9

Coal contract operators should accomplish the following reporting forms and submit them quarterly within the period required as follows:

Nature of Contract	Required Reporting Forms
A. Exploration	BED-CD-Coal-6, -7, & -8
B. Exploration/Production	BED-CD-Coal-6, -7, & -8
C. Production	BED-CD-Coal-4, -5, -6, -7, -8, & -9

Should there be any conflict between the provisions of this Section and the terms of the coal operating contract, the latter shall prevail.

Section II
Production/Sale/Inventory Report

- A. Use of BED-CD-Coal-4.
- B. The report should be submitted within ten (10) days after the end of each month.
- C. The report shall be submitted in duplicate

Section III
Coal Operations Return

- A. Use BED-CD-Coal-5.
- B. Expenditures shall be reported in Philippines Pesos.
- C. The return together with remittance of the amount due BED shall be files within sixty (60) days after the end of every calendar quarter and at the end of the each calendar year.
- D. The returns shall be signed by the designated authorized officials of the operator.
- E. The coal operations return shall be submitted in duplicate.
- F. In filling up the sections of the return the following must be observed:
 - 1. Gross Proceeds – revenue from the sale of coal produced and sold during the period covered by the report at posted or market price as the case may be. This should include all items of revenue defined as gross proceeds under the coal operating contract.

Include items defined under the same caption in the description of the accounts for the quarterly and accumulated year to date totals.

- 2. Recoverable expenses – show the total recoverable expenses as reflected in BED-CD-Coal-6. in no case should the reported recoverable expenses exceed the percentage (%) limitation provided for in the coal operating contract. The definitions of expense accounts outlined in the statement of recoverable expenses are stated in Section IV.

3. Operator's Fee and Allowance(s) – refer to the Service Contract for applicable rates that can be claimed.
4. Share on the Net Proceeds due BED – represents the net amount due BED for the period. Such amount should be remitted to BED together with the Coal Operations Return by making check(s) payable to the “Department of Energy” at its office in Energy Center, Merritt Road, Fort Bonifacio, 1201 Taguig.
5. Form of Remittance – the remittance shall be in either pesos or dollar, or both. The equivalent peso shall be the proportionate share of local sales to total sales. The same principle shall also apply in determining the amount of remittance in dollars.
6. Summary of Remittances – indicate in this section the quarterly remittance to the BED and show the applicable quarter, BED official receipt, date of official receipt and amount paid.
7. Certification – fill up the required information and have the President and Treasurer of the corporation signed the same.

Section IV
*Reporting Guidelines on Exploration Development
 and Production Expenses and Recoverable Costs*

A. The following forms must be used:

Exploration	BED-CD-Coal-6, -7, & -8
Exploration/Development	BED-CD-Coal-6, -7, & -8
Exploration/Production	BED-CD-Coal-4, -5, -6, -7, -8, & -9

B. Reports shall be submitted to the Energy Resource Development Bureau within sixty (60) days after the end of each calendar quarter. Extension may be dated for meritorious cases upon filing of appropriate request within the original 60-day period. In no case, however, should the extension be more than 30 days.

C. The reports must be signed by the operator's authorized officials.

D. The reports shall be submitted in duplicate.

E. In accomplishing the forms the following guidelines must be observed:

1. *BED-CD-Coal-6* *Coal Exploration Development
and Production Expenditures
and Recoverable Cost Summary*

- a. Summarize the operator's expenditures for capital (tangible, exploration, development, production, and general and administrative expenses during the period covered by the report.
- b. Specific amounts should be taken from the related from number and reference indicated.
- c. Indicate amounts of tangible investments opposite the years these were acquired. The recovery rates *should/will depend upon the depreciation method adopted by the operator and allowed under the coal operating contract*. The rates indicated in the sample form are based on a 10-year straight line method of depreciation.

For holders of coal exploration contracts, fill up the portions pertaining to recoverable cost and cost recovery only upon conversion of the contract into development/production and during the first submission of the coal operation return (Form CD-Coal-5).

2. *BED-CD-Coal-7* *Depreciable/Amortizable Assets*

- a. Report totals under tangible portion of BED-CD-Coal-6.
- b. To be reported under this form area capital expenditure defined under the coal operating contract. In this absence of a definition, capital expenditures shall be construed to mean acquisition cost of machinery and equipment, construction cost of infrastructures, expenditures incurred for construction in progress, and incidental costs related to such purchase or construction of machinery and equipment with estimated useful life longer than the immediate year of operations.
- c. Disposal of machinery and equipment should be properly accounted for by attaching a schedule showing among others the following:
 1. To whom sold/transferred and in case of loss, state manner
 2. Description of machinery/equipment
 3. Cost and depreciation
 4. Insurance recovery, if any

3. *BED-CD-Coal-8* *Exploration and Development Expenditures Summary*

- a. Included are exploration and development expenditures. The following should be covered:

Exploration Costs: Generally comprise the cost incurred in prospecting, sampling or testing for the presence of coal and subdivided into the following stages:

1. Survey costs and expenses related to the preliminary evaluation of the contract area and includes the following activities:
 - a. Geological mapping
 - b. Geochemical/Geophysical survey
 - c. Geodetic engineering and topographic surveying
 - d. Others
2. Exploration Drilling – cost incurred in sampling the areas for the presence of coal deposits after the survey works and the determination of the estimated reserves therein. The related activities at this stage are as follows:
 - a. Diamond Drilling
 - b. Pits testing
 - c. Site clearing
 - d. Other related expenses
3. Others – include expenses in connection with exploration activities that were not included in the above classification. Specific activity to be reported under this caption should be identified.

Development Costs – include expenditures incurred in developing the contract area(s), which is usually characterized by the following activities:

1. Development drilling
2. Tunneling
3. Pre-stripping
4. Others

- b. Identify indirect expenses (general and administrative expenses, which can be identified with the exploration or development activities).

4. *BED-CD-Coal-9*

Production and Marketing Expenditure Summary

- a. Expenditures to be reported under this form are those, which were incurred during the year. It should not include depreciation and amortization, of deferred costs.
- b. Unless otherwise provided for under the coal operating contract, marketing expenses shall form part of operating expenses and therefore subject to the percentage limitation on cost recovery.
- c. Report the expenditure accounts by their original object classification.
- d. Definition of account classifications used herein are shown in the description of the accounts portion of this section.

Detailed Description of Certain Accounts

1. *Plant, Property and Equipment (Depreciable/Amortizable Assets)*

Plant, property and equipment shall include the costs of depreciable physical assets purchased and/or constructed by the operator and used in the operations of the contract area. For purposes of valuing plant, property equipment, cost shall include all direct and other expenses incidental to the purchases and/or construction of the said physical assets such as, but not limited to export broker's fees, purchasing agent's fees, transportation, barges, loading and unloading fees associated with the procurement of such properties, duties, and customs fees, and in-transit losses not recovered through insurance, and other similar incidental expenses incurred in connection with the purchase and/or construction thereof.

The major costs of repairs, maintenance, or replacement of parts, which prolonged the lives of the properties described above shall be charged to the appropriate plant, property and equipment account and shall be depreciated over the remaining useful life of the particular property as computed based on the depreciation method adopted by the operator but in no case exceed the life of the reserve or the contract whichever is shorter.

This account may be sub-classified into:

Infrastructures

- Camp building
- Access roads
- Warehouse/storage
- Beneficiation plants
- Wharfs/bridges

For purposes, however, of determining compliance of a coal operator with its financial obligations under the coal exploration operating contract, the undepreciated costs of plant, property and equipment as of a given period shall be given in full credit.

2. *Sales*

Local-Gross proceeds from the domestic sale of coal.

Export-Gross proceeds from the sale of coal, which is to be exported from the Philippines.

Definition of Gross Proceeds shall be in accordance with the provisions of the Coal Operating Contract.

3. *Other Coal Operating Income*

Three (3) other coal operating income for inclusion in the coal operations return is, but not limited to the following:

a. *Sale of by-product*

Income from the sale of coal by-products.

b. *Gain/loss on sale of assets*

The resulting net income or loss from the sale of properties or equipment used in the coal operations.

c. *Equipment rental income*

All income arising out of renting coal mining equipment or other mining properties to third party.

d. *Sale of scrap materials*

Proceeds from the sale of coal mining materials, which were previously scrapped.

e. *Other coal operating income*

Includes all other income from coal operations subject to the provisions of the contract, which are not classifiable in any of the above.

4. *Marketing Expenses*

All costs and expenses directly associated with the marketing of coal produced which shall be limited (and should be sub-classified to):

- a. Delivery expense-hauling or freight costs incurred in transporting coal produced to the consumer.
- b. Commission and storage

The above should be further sub-classified as to whether incurred in connection with domestic or export sale.

5. *Operating Expenses*

a. *Contract Rights*

All direct costs attributable to the acquisition, renewal or relinquishment of surface rights acquired and maintained in force for the coal operations. The costs include processing fees, bid monies, bonuses, rentals and other payments to the BED.

Costs which are attributable to the posting of performance guarantee bonds or deposits required under the operating contract are recoverable as "operating expenses" if incurred during the development and production stage. However, the same shall not be considered for purposes of determining operator's compliance with its financial commitments under the contract.

b. *Surface, Water and Timber Rights*

All direct costs attributable to the entry, use or acquisition of private lands, timber and water when paid by the operator in accordance with the contract and the governing law(s) thereof including bid monies, rentals and other rentals made by the operator to the private landowner, timber concessionaires and/or government agencies for the entry, use and/or acquisition of the said surface, water and timber rights. The operating expenses may likewise be charged for arbitration costs and all costs attributable to the posting of a bond, which the Department of Energy may require of the Contractor to answer for any damages resulting from the exercise of the herein specific rights.

c.1 *Salaries and Wages*

The basic cost of labor performed by operator's own personnel other than those permanently stationed outside the Philippines.

c.2 *Overtime Pay*

This account shall include charges for services performed beyond employees' regular working time in accordance with the operator's policies.

c.3 *Bonus and Allowances*

Expenses paid or incurred by the operator for holiday or rest day, vacation travel pay or allowances, sickness and disability benefits, bonuses and other customary allowances granted by an operator to its employees.

d. *SSS, Philhealth and other Contributions – Employer Share*

Contributions made pursuant to assessment imposed by governmental authority. Items which are chargeable to this account are SSS premiums contribution, ECC contributions, Philhealth contributions and similar expenses.

Assessment or contributions imposed on employees and shouldered by the operator are chargeable in Sub-Account No. 4.

e. *Employee Benefits*

Expenses incurred by operator for the welfare and benefit of employees as defined in the Accounting Procedures of the Coal Operating Contract. The benefits include premiums and/or payments for group life insurance, health, pension, retirement, thrift and other benefits of a like nature. It also includes the assessment or contributions imposed by governmental authority on the employees but were borne by the operator as a result of contractual obligations or otherwise.

However, accrual of pension and retirement benefits should be based on actual computations.

f. *Supplies and Material Used*

Materials and supplies which are actually used in the coal operations shall be charged to this account.

Unused supplies and materials shall be classified as capital expenditure (inventory), and shall not be included under this account.

g. *Travel and Transportation*

Expenses incurred in connection with the transport of employees and their families paid or incurred by the operator in conformity with the Operator's established Policy Manual. It includes expenses incurred for returning employees and his families to their origin. Expenses incurred in moving an employee beyond the point of origin established at the time of his transfer are not chargeable as "Operating Expenses".

Transportation also includes moving of materials, supplies and equipment from operator's warehouse to the coal operations site. It BEDs not include expenses incurred in moving such materials, supplies and equipment to or from suppliers. Meals, board and lodging and other incidental expense employee travel are also charged under this account.

h. *Outside Services*

Cost of consultant services of a technical nature requiring skill and rendered by third parties. Examples of such services are computer services and laboratory studies.

i. *Depreciation*

The cost of depreciable assets acquired for the coal operations shall be allocated to Operating Expenses in accordance with the provisions of the coal operating contract. In the absence of such provision, cost of depreciable assets shall be allocated to operating expenses over the remaining useful life of the assets or the coal reserves, whichever is shorter calculated using the straight line method.

The acquisition cost of the depreciable assets should be reported under BED-CD-Coal-7. On the other hand, the rate and amount of depreciation should be shown in BED-CD-Coal-6.

j. *Damages and Losses*

All costs or expenses necessary to replace ore repair damages or losses not compensated or by insurance or otherwise resulting from the occurrence of fire, food, storm, theft, accident or any

other causes not controllable by the operator through the exercise of reasonable diligence.

All charges made under this account shall conform to the provisions of the Accounting Procedures of the Coal Operating Contract.

k. *Legal Expenses*

All costs and expense in connection with legal services as defined in the Accounting Procedures of the Coal Operating Contract. Legal expenses incurred in securing/or negotiating the coal operating contract are not chargeable to Operating Expenses.

l. *Insurance and Bonds*

Expenses incurred relative to operator's insurance requirements for the coal operations as defined in the Coal Operating Contract.

m. *Equipment Rental*

Costs which are paid or incurred in renting third parties mining equipment or tools in furtherance of the coal operations.

n. *Other Rental Expenses*

Charges by third parties for the operator's use of facilities other than mining equipment, such as buildings, premises, warehouses, etc.

o. *Communications*

Costs ore expenses paid or incurred for postage, telephone, telegram, telex, radio and other means of communications are chargeable under this account.

p. *Power, Light and Water*

Expenses incurred for utilities other than communications area charged under this account. It also includes expense for gasoline and oil and such other expenses to provide power, light and water for the benefit of the operations.

q. *Repairs and Maintenance*

Costs of repairs and maintenance of assets directly limited to the coal operations. Major cost of repairs, maintenance ore replacement should be capitalized and depreciated.

r. *Medical*

Expenses paid or incurred for the procurement of medicines, medical supplies and the maintenance of medical utilities for use in the coal operations area chargeable under this account.

s. *Taxes and Licenses*

Cost ore expenses paid or incurred by the operator, which includes taxes and licenses such as privilege taxes of employees borne by the operator. Where the operator is not subject to pay a tax or duty but has such tax, the amount so paid shall not form part of the operating expenses. Income taxes of the operator are also chargeable as Operating Expenses.

t. *Donations and Contributions*

All contributions ore donations allowed under the Internal Revenue Code shall be charged under this account. It includes contributions for the benefit of a coal association and/or its members wherein the operator is a duly acknowledged member thereof.

u. *Dues and Subscription*

Coal association and/or membership dues, subscriptions to periodicals, journals and magazines relative to the coal mining industry; subscriptions to dailies and similar expenditure shall be charge under this account.

v. *Training Expense*

Costs and expenses in training personnel for the Operator's own employment are chargeable under this account. Expenses in the training of other personnel in accordance with the provisions of the Coal Operating Contract, which are borne by the operator, are likewise chargeable under this account.

w. *Foreign Exchange Gains/Loss*

Any resulting gain or loss arising from the settlement of foreign obligation or receivables wherein the rates of exchange differ from

the time the transactions took place until the same are settled shall be charged or credited to this account.

x. *Storage and Warehousing*

Bills and charges of third parties actually paid or incurred in connection with the storage or warehousing of coal produce or materials, equipment supplies or other properties. This account is to be used if the storage or warehouses are not rented in which case, such expense should be charged to other rental expenses.

y. *Miscellaneous Charges*

Cost and expenses, which are necessarily and ordinarily incurred in the coal operations which are not classifiable under any of the above, are charged to this account.

Section V
Penalties

In general, penalties under this section shall be imposed for failure of the Coal Contract Operator to comply with the following requirements:

- A. To submit Production/Sales/Inventory report on time as provided under Section II.
- B. To file the Coal Operations Return on time as specified in Section III.
- C. If the return was filed on time *but* without the accompanying remittance.
- D. Refusal or neglect to pay the government share, to make return to supply information at the time specified.
- E. To file the Coal Exploration, Development and Production Investment and Recoverable Cost Summary (BED-CD-Coal-6) on time as specified in Section IV.

The penalties to be imposed shall be in accordance with the following:

- A. In addition to the net proceeds due BED – If the amount due thereon or any part of such amount is not paid on time, there shall be collected, as part thereof, interest and surcharges determined in accordance with the number of days delay as follows:
 - 1. Not more than 30 days – 14% interest computed from end of each of the related calendar quarter.

2. 31 days or more – 25% surcharges plus interest computed from end of each of the related calendar quarter.

Cancellation proceeding of the coal operating contract shall be initiated if the unremitted government share remains outstanding for more than 120 days.

B. For failure to file a return/report on time:

1 st 30 days	-	P 10/day
31 – 60 days	-	P 20/day
61 – 90 days	-	P 30/day
over 90 days	-	P 50/day

After 90 days, cancellation proceedings of the coal operating contract shall be initiated. Cancellation proceedings shall likewise be initiated if the contractor fails to submit the required return/report for two (2) consecutive quarters. In all of the above cases, the performance guarantee posted with the Energy Resource Development Bureau shall be held answerable for nonpayment of the penalties. The amount to be enforced against the bond shall be equivalent amount of financial obligation specified in the contract or the accumulated penalties *whichever is higher*.

CHAPTER FOUR GUIDELINES ON TECHNICAL OPERATIONS

The guidelines contained herein relate to the blocking system, survey of the contract area, accounting of the physical accomplishments of the operator, work equivalents for other accepted exploration methods and practices, mine safety requirements, and guidelines on pollution and siltation.

Section I *Blocking System*

A. *Coal Regions* – the following coal regions in the Philippines area 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 Region

Additional coal regions may be established by the Department of Energy when attendant circumstances so justify and warrant.

B. *Guidelines on the Use of the Coal 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 minute (1:½) 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 Department of Energy Coal Blocking Maps (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 Department of Energy 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 Department of Energy at the expense of the permittee/leaseholder/applicant or by the latter when so authorized by the Department of Energy. The corners of each block shall be marked by appropriate survey monuments. The survey plans shall be submitted to the BED 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 a coal operating contract.
6. Maps pertinent to the blocking system may be purchased at P 50.00 per sheet at the Department of Energy office at Merritt Road, Bonifacio Global City, 1201 Taguig. The Department of Energy maintains exclusive right over the printing and sale of these maps and no map or any portion thereof may be reproduced without the permission of the Department.
7. These maps are considered official maps and shall form part of the official application paper that an applicant for a coal operating contract submits to the Department.

Section II

Survey of Coal Blocks

- A. *Period of Stay* – 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 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 blocks sought to be surveyed
 - c. The consideration of contract price and mode of payment of the same.
 - d. The date of the submittal of the survey returns to the Department of Energy.
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 effective date of the coal operating contract.
3. A survey bond in the amount of P 10.00 per hectare but not less than P 500.00 per application, which bond shall be forfeited for failure to execute the survey and/or comply with the obligations as required by existing rules and regulation of the BED.

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 Department of Energy or by any duly licensed geodetic engineers. Geodetic engineers who have failed to submit the survey returns within the prescribed period shall not be issued further survey orders without the prejudice to whatever disciplinary actions that may be taken by the Board of Examiners for Geodetic Engineers. A licensed geodetic engineer may be authorized to execute coal land surveys upon submittal of the following:

1. A certified copy each of the Annual Professional Tax Receipt and Annual Registration Certificate issued by the Board of Examiners for Geodetic Engineers together with the original of his specimen signature.

2. A list of surveying instruments he shall use, certified by the Lands Management Bureau that the said instruments were registered with e said office and can be used in the survey of areas for land registration purposes, stating the condition at the time of the examination of the instruments, serial number, and other data pertinent to the approval.

A photocopy of each of the preceding two (2) requirements may be accepted upon a presentation of the original copy for inspection by the Director.

- E. *Cost of Survey* – If the ground survey is to be undertaken by a geodetic engineer of Department of Energy, the applicant shall pay the actual cost of the survey.
- F. *Execution of Coal Block Surveys* – Corners of the coal blocks shall be defined by monuments placed at interval of not more than four (4) hundred meters apart. When the boundary lines of the coal blocks pass across mountains or rolling terrain, the intermediate monuments between corners shall be established on ridges, whenever practicable, in which case, all consecutive corner monuments shall be intervisible.

The sized of corner monuments of a coal block shall be as follows:

1. Corner (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 x 60 cm concrete monuments shall be set 50 cm in the ground.
2. Other corners of the coal blocks shall be 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 an coal block number. The latitude and longitude of the principal corner shall also be indicated on the side of the concrete monuments when it coincides with the full two (2) 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 to 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 shorelines at low tide level.

All computations, plans and maps of coal block surveys to be submitted to the Department of Energy 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 DENR Technical Bulletin No. 26 are as follows:

- Spheroid – Clarke’s Spheroid of 1865.
- Projection – Traverse Mercator in zones of two (2) degrees 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 zonation.

Note: The overlap of 30 minutes thereof, however, is reduced to 5 minutes area as follows:

Zone No.	Central Meridian	Extent of Zone
I	117-00 E	116-00 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 DENR Technical Bulletin No. 26 and BED-TD-Coal-3 and BED-TD-Coal-4 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 practical 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 area tabulated as follows:

Latitude	Angular Convergency in Second 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 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 field notes, computations, plans, maps and reports of the surveys.

For precision of surveys, convergency connections, scale factors and azimuth correction (T-t) shall be referred from the formula use din the table of DENR Technical Bulletin No. 26. However, for tertiary precision of surveys, the scale factors and the azimuth correction (T-t) may be discarded.

Coal block survey 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 point of known geographic or Philippine Plane Coordinate System.

The 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 Lands Management Bureau
 - e. The Mines and Geo-Sciences Bureau
 - f. Other organizations the survey of which is of acknowledged standard.
2. Lands Management Bureau Location Monuments (LMB LM) and Lands Management Bureau Barrio Monuments (LMB BM) established by the Lands Management Bureau.
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 Settlements Surveys of Public Land Subdivision Surveys of the Land Management Bureau.
4. Mines and Geo-Sciences Bureau Reference Points (MGB BRP) monuments established by the Mines and Geo-Sciences Bureau.
5. Church Cross, church spire, church dome, church tower, historical monuments of known geographic or Philippine Plane Coordinate System acknowledged by the Bureau of Coast and Geodetic Survey, Lands Management Bureau or Mines and Geo-Sciences Bureau.
6. Corners of approved coal blocks surveys with known geographic and/or Philippine Plane Coordinate System 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 line 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 Department of Energy to form part of the survey returns for further investigation and record purposes.

Plans of coal blocks recorded under the Act shall be correctly and neatly 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 block survey.

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

G. *Submittal and Verification of Survey Returns* – Survey returns of coal blocks shall be submitted to the Department of Energy within one (1) year from the 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 field notes cover (BED-TD-Coal-5) made part of these regulations, duly accomplished, signed and sealed by geodetic engineer and notary public.
2. Azimuth computations from astronomical observations, traverse computations and other reference computations all in original and in duplicate properly accomplished and signed by the computer and geodetic and notary public.
3. Tracing cloth plan per block of scale of 1:5000 showing the horizontal and vertical control used, man-made and natural physiographic features like, rivers, roads, etc.
4. Descriptive and field investigation report on the coal block in quintuplet duly signed by the geodetic engineer & authorized assistant; if any, and duly notarized.
5. A consolidated plan per block of scale 1:5000 showing the relative position of the surveyed coal blocks and other coal blocks with existing rights at the time of the survey, if any and the political boundary monuments with in the area.
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.

Corners and/or location monuments of approval 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 found to be erroneous may be ordered by the Department of Energy corrected motu proprio, when justified by existing circumstances.

H. *Payments and Charges for Work which the BED May Perform*

1. Charges for field work in general – Charges for the following field work shall be by man days:
 - a. For field verification of approved coal surveys, investigation of conflicts, *P200 per man per day*, provided the minimum charge is P 400.00.
 - b. Counting of the number of days shall start from the day the fieldman leaves his official station and ends upon his return.
 - c. In addition to the charges under paragraphs (1) and (2) above, the applicant or interested party shall pay or the transportation of BED personnel from official station to the area and return as well as the expenses for freight, labor and material.
2. Survey of Coal Areas
 - a. For boundary surveys, P 50.00 per tracing cloth plan plus P 1.00 per prescribed original computation sheet of survey returns.
 - b. The line surveys, *P 100.00 per kilometer* in excess of five (5) kilometers of the tie line traverse shall be charged.
3. Verification charges on coal surveys – For the verification of the original field notes, computations, plans, technical descriptions and report of coal land surveys executed by duly deputized geodetic engineers, the following charges shall be paid by the applicant or interested party:
 - a. For boundary surveys, P 50.00 per tracing cloth plan plus P 1.00 per prescribed original computation sheet of survey returns.
 - b. For re-submitted (correction) and/or additional survey returns with field notes and/or computations, P 1.00 per new computations sheet prescribed, provided the minimum charge is P 20.00.
 - c. For computerized survey returns, a reduction of 50% on computation sheet of the above charges shall apply.
 - d. For underground, relocation of miscellaneous survey, the charges above shall apply.

Section III *Work Equivalents*

In accordance with the provisions of Section II (a) of Presidential Decree No. 972, otherwise known as the "Coal Development Act of 1976", as amended by Presidential Decree No. 1174, which provides in part, that

"That the Department of Energy after taking into account the geological and technical factors involved, allow a lesser number of drill holes and footage giving due credit to other accepted exploration methods and practices."

promulgated work equivalents under its Circular No. 8 series of 1977 the work equivalents are hereby reiterated and shall be observed in determining Presidential Decree No. 972 as amended. These work equivalents shall result to the proportionate adjustment of the minimum financial commitment and the number of drill holes and footages per coal block annually of coal operator. To wit:

1. In order to encourage deep drilling, a contractor may drill less than 30 holes per block provided that the total footage drilled per block is not less than 9,000 feet (2742 m-dhe) for underground areas and not less than 3,000 feet (915 m-dhe) for open pit areas.
2. Drilling obligations and corresponding financial commitments for a block may be proportionately reduced if the following can be proven to the satisfaction of the the Department of Energy:
 - a. That the block is partly underlain by rocks which obviously do not contain coal, such as intrusive igneous rocks.
 - b. That the blocks is partly offshore and it is shown that any coal proven underneath the offshore area cannot be mined economically, and
 - c. That the block partly consists of an area which may contain coal but which for some geological or technical reasons can not be mined economically, such as coal deposits covered by younger sediments with prohibitive thickness (beyond 500 m).
3. Unless a coal area is proven to the Board as an open pit area, every area shall be initially treated as an underground area for purposes of determining the minimum work obligations and financial commitment. However, if during the conduct of exploration work, it is proven that the area can be treated as an open pit area, the work obligations and financial commitments shall be correspondingly reduced.

4. Other exploration methods may be duly credited for purposes of complying with the minimum work obligations, as follows:
 - a. One (1) foot of drift, tunnel, adit or cross-cut with a cross-sectional area of at least 30 ft² is equivalent to 3 ft. of drill-hole;
 - b. One (1) foot of drift, tunnel, adit or cross-cut with a cross-sectional area below 30 ft² is equivalent to 2 ft. of drill-hole;
 - c. One (1) foot of shaft, raise, or winze with inclinations from 10° – 90° is equivalent to 4 ft of drill-hole;
 - d. One (1) foot of shaft, raise, or winze with inclinations less than 10° – 90° is equivalent to 2 ft of drill-hole;
 - e. Two (2) feet of exploratory trench is equivalent to one (1) foot of drill-hole;
 - f. One (1) foot of test pit is equivalent to one (1) foot of drill-hole;
 - g. One (1) foot of auger drilling is equivalent to one (1) foot of drill-hole;
 - h. All other accepted exploration methods (seismic, etc.) may also be given corresponding drill-hole equivalents, which shall be determined by the Department of Energy on a case to case basis, as the need arises.

Section IV
Accomplishment Report

Use BED-TD-Coal-6 & -7

BED-TD-Coal-6 should be submitted within ten (10) days after the end of each month.

BED-TD-Coal-7 should be submitted on or before January 10 of each year.

C. The reports shall be submitted in duplicate.

D. In accomplishing BED-TD-Coal-7 the following must be reported:

1. Daily production means present average daily output of mine
2. Manpower

Underground forced includes miners, mockers, trammers, etc. working underground

Surface force includes officer, workers, road maintainers, etc.

Staff includes departments heads and above.

3. Mining Method – whether longwall or shortwall (advancing or retreating), room & pillar, raise mining, etc.

4. Coal Extraction

Capacity refers to the rate of extraction of the equipment in metric tons or advance in meter per hour or shift.

5. Equipment

1 – 9 capacity refers to horse power for locomotive and hoist machine gallons or liters per minute for pumps, cubic feet or cubic meter for loader.

Estimated fuel consumption is usually expressed in liters of gasoline, diesel or oil per day, shift or hour.

Hours of operation are the total time the equipment has been operating in one day.

10 Rails size is expressed in pound per yard or kilos per meter for steel and dimensions for wood.

11 Mine cars: Dimension is in meters, capacity in metric tons and construction data includes what it is made of mode of dumping, etc.

12 Hoist Bucket – same as in mine cars

13 Vent, tubes diameter in centimeters, material pertains to its make

14 Cable: Kind refers to strand characteristics, diameter in millimeter or fraction of an inch, capacity in the amount of load which it can carry.

15 U.G. lighting: Kind refers to whether cap lamps, carbide lamps, fluorescent, etc.

6. Mode of Entry

Dimension is usually width x height in meter or feet.

Kind of support – whether 3 piece set, steel arch, props, etc.

Size is expressed in inches or centimeter dimension.

Grade pertains to the inclination or declination in degrees

7. Marketing – list the buyers with the corresponding location, price specifications, hauling and barging distances.
8. Benefit given to laborers should include housing, bonuses, etc.
9. Productivity is expressed in metric tons per 8 hours per man.
10. Separate data sheets should be filled up by mining companies which have two or more mines.

Section V
Coal Mine Safety Rules and Regulations

All holders of Coal Operating Contract must acquire a copy of and must strictly observe the set of safety rules and regulations promulgated by the Department of Energy under its Circular No. 1, series of 1978. In addition thereto, the following additional safety rules and regulations *must* likewise be strictly adhered to:

- A. Workers shall not be allowed to smoke, carry smoking materials, matches, or lighters underground. A system of inspection shall be instituted and strictly enforced to avoid bringing the above materials underground.
- B. All active working places underground shall be ventilated by a current of air containing not less than 20% oxygen with sufficient and velocity to dilute, render harmless and to carry away flammable, explosive, noxious and harmful gases, dust, smoke and fumes.
- C. Where natural ventilation is insufficient, coal mines shall be ventilated by mechanical ventilation equipment.
- D. The allowable limits of gases in the active working places shall not be in excess of the concentrations listed below:
 1. Methane (CH₄) – 1.00%
 2. Carbon Monoxide (CO) – 0.01%
 3. Carbon Dioxide (CO₂) – 0.50%
 4. Hydrogen Sulfide (H₂S) – 0.10%
 5. Nitrous Oxide (NO₂) – 0.0005%
- E. Before the start of every shift, examinations of all active mine workings shall be conducted by the safety engineers or inspectors for:
 1. Presence of Methane gas;
 2. Oxygen efficiency;
 3. Conditions of mine faces, roofs, ribs;
 4. Approaches to abandoned areas;
 5. Quantity and direction of air flow.

- F. During each shift, the following shall be undertaken:
1. Check all working sections of the mine for hazardous conditions;
 2. Before any electrical equipment underground is switched on, check methane gas concentration in the area. Subsequently, check for methane gas at intervals of not more than twenty (20) minutes when the electrical equipment is operating;
 3. Check that methane concentration is below 1% before blasting is initiated.
- G. If the methane concentration is:
1. Over 1.0% but less than 1.5%, the ventilation system shall be improved or changed until the concentration is less than 1.0%.
 2. Over 1.5%, all workers in the affected areas shall be withdrawn and adjustment in the ventilation system shall be made until the concentration is less than 1.0%.
- H. The following examinations shall be conducted weekly:
1. Check all working sections for hazardous conditions;
 2. Check conditions of idle working and abandoned areas;
 3. Measure quantity and direction of air flowing in all underground sections of the mine;
- I. Every month, tests for dangerous gases like carbon dioxide, carbon monoxide, hydrogen sulfide, and nitrous oxide shall be made.
- J. All pre-shift, on-shift, weekly and monthly and other examinations and tests shall be recorded in a permanent log book.
- K. Air containing more than 0.25% methane shall not be used for ventilating any working place in the mine.
- L. Methane detectors shall be used to test the presence of methane gas.
- M. Permissible flame safety lamps or any approved oxygen detecting devices shall be used to test oxygen deficiency in coal mines.
- N. Permissible multi-gas detectors shall be used to detect gases other than methane and oxygen.

- O. Only permissible electrical equipment shall be used underground.
- P. Electrical wires and cables shall be insulated adequately and properly protected.
- Q. All electrical connections or splices shall be re-insulated at least to the same degree as the remainder of the wire.
- R. Only permissible cap lamps shall be used.
- S. Only permissible explosives shall be used for blasting operations underground.
- T. The entrance of any underground workings that is declared inactive, closed or abandoned shall be sealed by the operator. The seal shall be strong materials and well constructed so that it is not easily broken into. A closer "DANGER" sign shall be posted in the said place.
- U. No man shall be assigned to work in a place that has been stopped or abandoned unless accompanied by the shift boss or higher official directly orders by the mine manager.

For the guidance of the coal operators the number of the following forms has been changed:

Form	BED Form No.	
	From	To
A. Monthly Coal Mine Accident Report	78-001	BED-CD-Coal-8
B. Permanent Safety Engineer's Permit	78-002	BED-CD-Coal-9
C. Temporary Safety Engineer/Inspector Permit	78-003	BED-CD-Coal-10
D. Medical Examination for Hoisting Operator	78-004	BED-CD-Coal-11

Section VI
Guidelines on Controlling Pollutions and Siltations

To effectively control pollution and siltation caused by coal mining operations, all holders of coal operating contracts must observe the following:

- A. All coal operations should have a complete, comprehensive anti-pollution and reclamation plan designed for all phases of mining, from pre-production until the end of the mine.
- B. All mine reclamation plans should be completed within five (5) years from the date of its commencement.
- C. Updated plans and maps on mine anti-pollution and reclamation should be submitted to the Department of Energy yearly.
- D. Control Mining Procedures:
 - 1. If overburden stripping is required in the mining operations, the topsoil should be segregated, preserved and vegetated.
 - 2. Barriers used to provide a natural seal along the coal outcrops should include other elements of control like regrading, re-vegetation and water diversion.
 - 3. Fracturing of overlaying strata in underground mines should be minimized.
 - 4. In daylighting mine benches in open pits or underground openings, care must be exercised to ensure that the mine BEDs not create more pollution and/or siltation than the old mine.
 - 5. Areas surrounding both open pit and underground mines must be protected from slides and other damages.
- E. Waste Water Control
 - 1. Earth dams from impounding waste water and mill tailings must not interfere with the mining operations or drainage and must not violate pollution standards.
 - 2. Disturbances to the hydrologic balance and to the surface and ground water must be minimized.
 - 3. The regulated discharged method, which involves the use of ponds capable of storing large quantities of mine water during periods of low assimilative capacity and are drained during periods when the streams are

capable of accepting this waste, should be used as an *interim measure only*.

4. Rerouting or collection of mine waste water and conveying it more suitable discharge points should be intended as an *interim measure only*.

F. Regrading

1. Regrading should be included in the reclamation plan of any open pit coal mine.
2. Regrading must create a final topography consistent with its final land use.
3. Regrading should be used in connection with other methods but not limited to:
 - a. Soil segregation
 - b. Burial of pollution forming materials
 - c. Spreading of soil
 - d. Construction of water diversion facilities
 - e. Sealing of underground mine openings
 - f. Soil supplement and revegetation

G. Erosion Control

1. Erosion control should be an essential part of any reclamation plan.
2. Run-off control should be included in all mining plans. Examples of such controls which can be used are revegetation, mulching, slope reduction, riprapping terraced embankments, surface scarification, slope stability, drain tunnels, ditches and settling ponds.

H. Revegetation

1. Revegetation should be an integral part of reclamation plans that incorporate regrading, diversion and overburden segregation.
2. Revegetation should be as comparable to previous or existing surrounding area.
3. Any tree planting should be accompanied by establishment of dense ground covers of grasses and legumes.
4. Where the operator's choice of reclamation is for grazing, slopes must not be too steep for livestock and overgrazing should be avoided. Standards for seeding must be established.

5. Native species, particularly species that have successfully thrived on nearby mines with similar climate and soil conditions, are to be selected.
 6. Where the object of reclamation is for agriculture, general agricultural practices must be followed.
 7. When used, the original topsoil should be spread over the surface of the mine after regrading soil.
- I. Abandoned or finished underground openings should be sealed to reduce oxidation of pyritic materials.

Section VII
Penalties

- A. *Survey* - failure of the operator to perform the ground survey of the contract area within one (1) year from effective date of the coal operating contract shall constitute automatic abandonment of the contract area and the cancellation of the coal operating contract.
- B. Failure to submit monthly accomplishment reports, monthly accident reports, minutes of safety meetings:
1. First offense - Warning
 2. Second offense - Fine of ₱1,000 with warning of cancellation
 3. Third offense - Cancellation of contract
- C. Late (after ten (10) days of succeeding month) submission of monthly reports
1. First offense - Warning
 2. Second offense - Fine of ₱1,000
 3. Third offense - Fine of ₱1,000 with warning of cancellation
 4. Fourth offense - Cancellation of contract
- D. Failure to submit updated maps every six (6) months within fifteen (15) days after the sixth month:
1. First offense - Fine of ₱1,000
 2. Second offense - Fine of ₱1,000 with warning of cancellation
 3. Third offense - Cancellation of contract
- E. Failure to submit annually the Inventory of Tax Exempt Equipment, Inventory Data of Coal Mines and Annual Accomplishment Report within the first 15 days of January of every year:

1. First offense - Warning
2. Second offense - Fine of ₱1,000 with warning of cancellation
3. Third offense - Cancellation of contract

F. Failure to register/renew and obtain permit for safety engineer/safety inspector within one (1) month after appointment or expiration of old permit:

Fine of ₱1,000

G. Failure to employ required technical men like mining engineers, safety engineers/inspectors, geologist in accordance with the Mine Engineering Law and the BED Coal Mine Safety Rules and Regulations within six (6) months after the signing of the contract.

1. First offense - Warning
2. Second offense - Fine of ₱1,000
3. Third offense - Suspension (until compliance) with warning of cancellation
4. Fourth offense - Cancellation of contract

H. Failure to notify the Bureau using the fastest available means of communication the occurrence of any of the accidents specified in Rule I, Section I, Chapter I of BED CMSRR within two (2) days after the date of accident:

Fine of ₱1,000

I. Failure to report mine accidents within seven (7) days after the date of accident:

1. First offense - Fine of ₱1,000
2. Second offense - Fine of ₱1,000 with warning of cancellation
3. Third offense - Cancellation of contract

J. Below par safety ratings.

1. 50 to 59.9% (poor) - Warning
2. 30 to 49.9% (very poor) - Fine of ₱1,000 with warning of cancellation
3. Below 30% (failure) - Cancellation of contract

K. Failure to improve par safety ratings during the next inspection:

1. First offense - Fine of ₱1,000

- 2. Second offense - Fine of ₱1,000 with suspension until corrected and warning of cancellation
 - 3. Third offense - Cancellation of contract
- L. Failure to correct unsafe conditions noted during BED inspection without justifiable reasons during the next inspections:
- 1. First offense - Fine of ₱1,000
 - 2. Second offense - Fine of ₱1,000 with suspension until corrected and warning of cancellation
 - 3. Third offense - Cancellation of contract
- M. Failure to survey the boundary of contract area and submit the survey returns within one (1) year from the date of the contract:
- Cancellation of contract
- N. Non-compliance with any of the provisions of Bureau Circular No. 81-07-07 on the control of mine gases:
- 1. First offense - Suspension until compliance
 - 2. Second offense - Cancellation of contract
- O. Failure to appear when summoned during official BED investigation without justifiable reason, two days after notification:
- 1. First offense - Warning
 - 2. Second offense - Fine of ₱1,000
- P. Withholding of pertinent data or information required by the Bureau:
- 1. First offense - Warning
 - 2. Second offense - Fine of ₱1,000
- Q. Erroneous reporting of work accomplishments:
- 1. First offense - Fine of ₱1,000 with warning of cancellation
 - 2. Second offense - Cancellation of contract
- R. Illegal mining:
- Criminal prosecution

Chapter V
Other Provisions

Section I - Rules and Regulations Governing Tax-Exempt Importation under Presidential Decree No. 972 Otherwise Known as the "Coal Development Act of 1976

Pursuant to Paragraph (b) of Section 16 and Section 18 of Presidential Decree No. 972, otherwise known as the "Coal Development Act of 1976", the following rules and regulations are hereby promulgated.

Rule 1. **EXEMPTION** - In accordance with Section 16 (b) of Presidential Decree No. 972, the operator or a coal operating contract may be authorized by the BED to import under certain conditions machinery and equipment, spare parts and materials required in their coal operations without payment of customs duty and compensating tax.

"Required in the coal operation" shall mean that the machinery, equipment, spare parts and/or materials sought to be exempted are directly and actually needed and will be used exclusively by the operator in its operation or in operation for it by a contractor which the operator or its contractor is currently engaged or is expected to engage within a reasonable period of time.

The exemption of spare parts shall be limited to spare parts imported within a particular one calendar year period, the aggregate cost of which shall not exceed ten percent (10%) of the cost of the specific machinery or equipment where they will be used. Spare parts in excess of the above amount allowed to be imported within the said one year period shall be subject to the regular duty and taxes.

Rule 2. **APPLICATION** - All applications for tax-exempt importations shall be made upon BED-L-Coal-1 which shall be accomplished in triplicate and sworn by a responsible officer of the operator before a notary public.

Applications shall be examined first as to completeness of the required data and information to facilitate proper processing and evaluation and those that are incomplete shall not be accepted.

Except in cases covered under the next succeeding rule, no application shall be accepted unless filed at least ten (10) days prior to actual importation. For this purpose, importation shall mean in the appropriate case, the opening of letters of credit, the placing of purchase orders in case of open account, or the execution of the lease contract in case of lease arrangement, for the machinery, equipment, spare parts and materials sought to be exempted.

Rule 3. **EMERGENCY IMPORTATION** - In case of importation urgently needed in the coal operations where the operator could not comply with the requirement provided in Rule 2 without incurring delays and needless expenses, the BED, upon written request for good cause shown, may authorize the importation without prepayment of customs duty and compensating tax upon the posting of a good and sufficient bond in favor of the Bureau of Customs in an amount not less than the stated amount of duty and tax from which the importation is being exempted. It shall be the principal condition of the bond that the importer shall submit to the Bureau of Customs within thirty (30) days from the withdrawal of the importation from customs custody, the appropriate certificate issued by the BED, qualifying the importer to undertake the importation on a tax-exempt basis. Failure of the importer to produce said certificate within the prescribed period shall cause the automatic cancellation of the bond in favor of the government without recourse to a suit in law.

Rule 4. **CONDITIONS FOR TAX-EXEMPT** - The tax-exempt importation of machinery, equipment, spare parts and/or materials shall be authorized under the following conditions:

- a) The importation is directly and actually needed and will be used exclusively by the operator in its operation or in operation for it by a contractor which it is currently engaged or is expected to engage within a reasonable period of time;
- b) The machinery and equipment, spare parts and/or materials proposed to be imported are not manufactured domestically at comparable prices and quality.

For this purpose, the BED may cause the publication, at the expense of the operator of a notice to purchase machinery, equipment, spare parts and/or materials known to be domestically manufactured in a newspaper of a general circulation, with a list of the proposed importations for the information of all domestic companies concerned. Domestic manufacturers shall be advised to submit to the BED within five (5) days from the date of publication, their respective firm names, addresses, locations of their plants, the names of their general managers and chief engineers, telephone numbers, and the machinery, equipment, spare parts and/or materials proposed to be imported which they manufacture or could manufacture to adequately meet the needs of the operator, the prices thereof, and quantity and quality of their products.

In determining the reasonableness of the prices quoted by the domestic manufacturers, the BED may be guided by the acquisition cost of similar machinery, equipment, spare parts and/or materials imported into the Philippines, if all applicable taxes and duties were paid thereon, plus fifteen percent (15%) markup.

- c) The certificate shall be valid for a period of six months from the date stated therein;
- d) The importation is covered by shipping documents in the name of the operator as consignee to whom the shipment will be delivered directly by the customs authorities;
- e) All existing rules and regulations governing the bringing into the Philippines of foreign articles and the clearance thereof from customs custody are complied with.

Rule 5. **BED ACTION** - The action of the BED on the application, whether it be approval or disapproval, shall be communicated in writing to the operator. If the action be that of approval, the BED shall forward to the Collector of Customs of the port where the importation is proposed to be entered a Certificate of Qualification for Tax Exemption (BED-TD-Coal-2) on the basis of which the operator can secure release of the imported machinery, equipment, spare parts, and/or materials indicated therein without payment of customs duty and compensating tax. Copies of the certificate shall also be sent to the Ministry of Finance, the Commissioner of Customs, Bureau of Mines and the operator.

Rule 6. **BED SEAL** - (Issued on July 1, 1990 per BED Circular No. 80-07-04) To ensure authenticity of Certificates of Tax Exemption issued to service contractors who qualify in the importation of machinery, equipment, spare parts or materials directly and exclusively needed in their contract operations free from the payment of customs duties and compensating tax, the Department of Energy will be using its own dry seal to be stamped on every certificate of Tax Exemption.

The Seal will be exclusively stamped at the Department of Energy and any Certificate of Tax Exemption not bearing the said seal will not be considered valid.

Rule 7. **POST IMPORTATION REQUIREMENTS** - Within thirty (30) days following the release of the importation from customs custody, the operator shall submit to the BED copies of official documents required under the Revised Tariff and Customs Code of the Philippines, as amended, indicating the descriptions, quantity and price of the machinery, equipment, spare parts, and/or materials imported, the names of the supplier and carrying vessel and other particulars relating to said importation.

The operator shall, within the same period stated in the proceeding paragraph, advise the BED in writing of the precise place to where the importation has been taken and the actual use thereof. In case installation is necessary, the same shall be made within one hundred twenty (120) days following the withdrawal of the importation from customs custody, unless said period is extended by the BED

upon proper request for good cause shown. In the latter case, the thirty-day period for submitting the written advice to the BED shall be counted from the time the installation is completed.

In connection with the foregoing, the BED reserves the right to send its duly authorized representatives for the purpose of verifying whether or not the importation has actually been installed and is being used in the coal operations as prescribed by the operator.

Rule 8. **USE OF BED STICKERS** (Issue on November 27, 1980 per Department Circular No. 80-11-09).

To show that the machinery or equipment was imported under the Coal Operating Contract and to ensure that it is being used directly, actually and exclusively by the operator in its coal operations as intended under Section 16 of Presidential Decree No. 972, as amended, and reiterated under its Coal Operating Contract awarded by the Department of Energy, thru the Energy Resource Development Bureau, it is required that the sticker of the seal of the Energy Resource Development Bureau and its accompanying descriptions "Tax-Exempt and Entered under P. D. 972" shall be clearly pasted on a conspicuous spot on the front right side of every such machinery or equipment imported free from the payment of customs duty and compensating tax by said Coal Operating Contractor.

Compliance to the requirement must be made within fifteen (15) days from actual release of such machinery or equipment from the custody of the Bureau of Customs and a corresponding report submitted to the Department of Energy on the accomplishment of this order. The Department of Energy shall monitor compliance to this Circular.

Machinery and equipment previously imported tax-free by the Coal Operating Contractor should be inventoried and the list prepared under oath should be submitted to BED office. The Coal Contractor is likewise required that every such machinery or equipment so imported should be sealed or posted with BED stickers.

The sticker bearing the BED seal and its descriptions will be issued by the Department of Energy at reasonable prices.

In case of sticker fades or becomes unclear it must be replaced dully informing BED of said replacements.

Any tampering, falsification or fraud committed in connection with the sealing of BED seal and the accompanying description will be appropriately dealt with under applicable law.

This requirement shall take effect immediately.

Rule 9. **PRIOR APPROVAL OF SALE OR DISPOSITION** - The operator shall not sell, transfer, export or dispose of the machinery, equipment, spare parts and/or materials which were allowed to be imported on a tax-exempt basis without the approval of the Department and payment of duties and taxes to the government. In case of sale, transfer, export or other disposition without approval of the BED, the operator shall be liable to pay twice the amount of taxes and duties which were originally waived in its favor. However, the Department of Energy may allow and approve the sale, transfer, or disposition without tax if made to:

- a) Another operator under a coal operating contract;
- b) For reasons of technical obsolescence; or
- c) For purposes of replacement to improved and/or expand the operation under the coal operating contract.

Rule 10. **FEE** - A processing fee of _____ (₱_____) shall be required for every application under these rules and regulations.

Rule 11. **EFFECTIVITY** - These rules and regulations shall take effect immediately. Copies thereof shall be furnished to the Department of Finance, the Bureau of Customs and the operator under a coal operating contract. (Except for rules 6 and 8, the rest were issued on February 8, 1977 per Circular No. 5 series of 1977).

LIST OF BED FORM

BED-N-Coal 1	Application for Coal Operating Contract
BED-N-Coal-2	Model Coal Contract
BED-N-Coal-3	Model Accounting Procedures
BED-N-Coal-4	Deviation from Model Contract
BED-TD-Coal-1	Summary Work Program-Exploration
BED-TD-Coal-2	Summary Work Program-Development/Production
BED-TD-Coal-3	Philippine National Grid Coordinate Conversion, Geographic To Grid
BED-TD-Coal-4	Philippine National Grid Coordinate Conversion Grid to Geographic
BED-TD-Coal-5	Survey Field Notes
BED-TD-Coal-6	Monthly Progress Report
BED-TD-Coal-7	Inventory of Coal Mines Data Sheet
BED-TD-Coal-8	Monthly Coal Mine Accident Report
BED-TD-Coal-9	Permanent Safety Engineer's Permit
BED-TD-Coal-10	Temporary Safety Engineer/Inspection Report
BED-TD-Coal-11	Medical Examination for Hoisting Officer
BED-TD-Coal-12	List of Tax Exempt Equipment
BED-CD-Coal-1	Format of Letter of Credit (Foreign)
BED-CD-Coal-2	Format of Letter of Credit (Domestic)
BED-CD-Coal-3	Format of Performance Bond
BED-CD-Coal-4	Monthly Coal Inventory/Production/Sale Report
BED-CD-Coal-5	Coal Operations Return
BED-CD-Coal-6	Coal Exploration/Development/Production Summary Investment and Recoverable Cost
BED-CD-Coal-7	Depreciable/Amortizable Assets
BED-CD-Coal-8	Exploration and Development Expenditure Summary
BED-CD-Coal-9	Production and Marketing Expenditure Summary
BED-L-Coal-1	Application for Tax Exempt Importation
BED-L-Coal-2	Certificate of Qualification for Tax Exemption

BED-N-COAL 1

APPLICATION NO. _____
O. R. NO. _____
DATE _____
AMOUNT _____

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF ENERGY
APPLICATION FOR COAL OPERATING CONTRACT
(Submit in three (3) copies including annexes)

I. GENERAL PARTICULARS

- a) Application
- b) Address and Telephone No.
- c) Authorized Representative(s)
- d) Block No. Location of Coal
Area Applied for
- e) Nature of Business. Briefly discuss primary and secondary business purposes as authorized by corporate charter. Submit as Annex A copy of articles of incorporation duly certified by the Securities and Exchange Commission
- f) Ownership and Control
 - 1. Controlling Stockholders List names of majority stockholders and the percentage of their holdings
 - 2. Company Directors and Officer List names of board members and company officers

3. Parent/Subsidiary
Affiliates List names, address and nature of business of Parent, subsidiary and affiliate companies if any
- g) Holdings List all temporary permits, coal operating contracts and pending coal, oil and mining application together with its number, date granted, location, and partners interest.
- h) Annexes Submitted
- | | |
|---------|--|
| Annex A | Articles of Incorporation |
| B | Proposed Coal Operating Contract |
| C | Deviations from Model Contract |
| D | Proposed Work Program |
| E | Geological Report or Feasibility Study |
| F | Audited Financial Statements as of |
| G | Unaudited Financial Statement as of |
| H | Statements of Changes in Working Capital |
| I | Cash Flow Statement |
| J | Organization Chart Finance/Administration |
| K | Curriculum Vitae of Finance and Administrative Personnel |
| L | Organization Chart – Technical |
| M | Curriculum Vitae of Technical Personnel |
| N | Evidence of Ownership of Drilling Equipment |
| O | List of Company owned Equipment available for Coal Operation |

II. PROPOSED CONTRACT

(Submitted copy of proposed coal operating contract patterned after the Model Contract (BED-N-Coal-2) as Annex B

- a) Contract Proposal Indicate whether or not proposal deviated from the provision of Model Contract. Submit as Annex C a comparative analysis, in tabulated form (BED-N-Coal-4) of items in the Coal Operating proposal which deviate from the Model Contract. Reasons for the proposed changes should likewise be presented.

- b) Type of Contract State whether exploration or development/production, or both

- c) Terms

- d) Work Program Accomplish BED-TD-Coal-5 for exploration contract and BED-TD-Coal-6 for development and production contract. List proposed yearly exploration and/or development production work obligation and the corresponding aggregate estimated cost. For development/production contracts, in addition to the work program, the applicants should submit a feasibility study containing among others the following:
 - a) Details of mining method
 - b) Equipment specifications

- c) Safety and ventilation plans
- d) Detailed estimate of mineable reserves

For exploration contracts, a geological report, signed by a licensed geologist on the proposed contract area, containing among others the necessary geological evidence of the occurrence of coal deposits in area, should be submitted together with the work program.

- d) Cost Recovery
- e) Production Sharing

III. FINANCIAL AND ADMINISTRATIVE QUALIFICATIONS

(Submit as Annex F audited financial statements. If latest audited financial statements are more than sixty (60) days old at the time of filings of application, submit an unaudited financial statement (Annex G) as of the date of filing (or dated within thirty (30) days to date of filing) and a statement of changes in working capital (Annex H) between the two financial statements dates)

- a) Working Capital as of ₱ _____
- b) Current Ratio
- c) Debt/Equity Ratio
- d) Capitalization
- Authorized ₱ _____
- Paid-Up ₱ _____
- e) Source of Funding Indicate amount and whether equity, working capital or loan. Name or sources of short long terms financing should

also be indicated. Submit cash flow statement as Annex I.

- f) Organization List name, qualification and position of finance and administrative personnel. Submit organizational chart as annex J and curriculum vitae of all finance and administrative personnel as Annex K.

IV. TECHNICAL QUALIFICATION

- 1. List name, qualification and position of technical personnel. Submit organizational chart as Annex L and curriculum vitae of all technical personnel as Annex M.
- 2. Describe other company owned equipment available for coal exploration and/or development and production (Annex N).
- 3. Describe drilling equipment owned or contracted. Submit as Annex O documentary evidence of ownership or lease agreement.
- 4. Describe history and nature of past activities in the field of coal.

V. CERTIFICATION

We certify that:

- 1. We have read and understood the BED's guidelines for filing, processing and of coal operating contract;
- 2. The foregoing informations are true and correct. It is understood that any omissions or misinterpretation of the required information shall be sufficient cause for the rejection of this application.

DATE

APPLICANT

BED-N-COAL-2

Republic of the Philippines
DEPARTMENT OF ENERGY

(MODEL AGREEMENT)

COAL OPERATING CONTRACT

This contract, made and entered into this _____ day of _____ 198____
in the City of Manila, by and between the MINISTRY OF ENERGY through the
ENERGY RESOURCE DEVELOPMENT BUREAU, established pursuant to
Presidential Decree No. _____, as the First Party.

- and -

___ as the Second Party, hereinafter referred to as the "OPERATOR". The
DEPARTMENT OF ENERGY and the OPERATOR are hereafter referred to
collectively as the "PARTIES".

WITNESSETH that:

WHEREAS, all coal resources of the Philippines belong to the State and their
exploration, exploitation, development, disposition, and utilization are governed
by Presidential Decree No. 972 (as amended), otherwise known as the Coal
Development Act of 1976;

WHEREAS, the Coal Development Act of 1976 (hereinafter called "the Act")
declared the policy of the State to immediately accelerate the exploration,
development, exploitation, production and utilization of the country's coal
resources in accordance with a coal development program promulgated and
established by the Act;

WHEREAS, under the provisions of the Act, the Government through the
Department of Energy and its successors or assigns shall undertake by itself the
active exploration, development and production of coal resources and may also
execute coal operating contracts as provided for in the Act; and

WHEREAS, in pursuance of the above-stated policy, the Government, through
the Department of Energy, wishes to avail itself of the resources of the
OPERATOR through a coal operating contract under which the OPERATOR will
furnish the necessary services, technology and financing for the coal operations
hereinafter defined;

WHEREAS, the OPERATOR wishes to enter into such a coal operating contract covering the coal contract area as hereinafter defined; and,

WHEREAS, the OPERATOR has the financial resources, technical competence and professional skills necessary to carry out the coal operations;

NOW, THEREFORE, in consideration of the mutual covenants and the condition herein contained, the PARTIES herein have stipulated and agreed as follows:

Section I - SCOPE

- 1.1 This Contract is a coal operating contract entered into pursuant to Section 8 of the Act with all necessary services, technology and financing to be furnished by OPERATOR in accordance with the provisions herein contained. The OPERATOR shall undertake, manage and execute the coal operations contemplated hereunder.
- 1.2 The OPERATOR shall be responsible to the Department of Energy for the execution of such operations in accordance with the provisions of this Contract, and is hereby appointed and constituted the exclusive party to conduct the coal operations.
- 1.3 During term of this Contract, the total production achieved in the conduct of the coal operation shall be accounted for between the PARTIES in accordance with Section VI hereof.

Section II - DEFINITIONS

In the test of this Contract, the words and terms defined elsewhere in the Act shall, unless otherwise specified herein, have meaning in accordance with such definitions.

- 2.1 *Coal Contract Area* means at any time the area subject of this Contract and defined in conformity with the blocking system established in the Act consisting of _____ coal blocks and determined by the Energy Resource Development Bureau as areas available for coal operating contracts. The Coal Contract Area is outlined and more particularly described in Annex "A" attached hereto.
- 2.2 *Coal* means a block or brownish black solid combustible rock containing less than 40% non-combustible inorganic components, formed by the accumulation, decomposition and compaction of plant material under long acting geological process.

- 2.3 *Coal Operations or Operations* 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 deposit so that it can be mined, including but not limited to shaft sinking and tunneling; and
 - c) The extraction and utilization of coal.
- 2.4 *Coal Reserves in Commercial Quantity* means coal in such quantities which will allow economic development and production of the coal contract area as determined jointly by the OPERATOR and the ENERGY RESOURCE DEVELOPMENT BUREAU after taking into account factors such as measured reserves, quality of coal, mining method and location and accessibility to market.
- 2.5 *Operating Expenses* means the total expenditures for coal operation incurred by the OPERATOR as provided for in a coal operating contract and determined in accordance with the Accounting Procedure attached hereto and made part hereof as Annex "B". These expenses include but are not limited to the cost of detailed surface geologic mapping, core drilling, trenching, test pitting and other appropriate means for the probing of the presence and extent of coal deposits, mining of coal which will include sinking and tunneling and extraction and utilization of coal.
- 2.6 *Effective Date* means the date of the execution of this Contract by the PARTIES.
- 2.7 *Foreign Exchange* means currency other than that of the Republic of the Philippines that are freely convertible into gold or currencies eligible to form part of the country's international reserves acceptable to the Department of Energy and the OPERATOR.
- 2.8 *Calendar Year or Year* means a period of twelve (12) consecutive months commencing with January 1 and ending on the following December 31, according to the Gregorian Calendar.
- 2.9 *Contract Year* means a period of twelve (12) consecutive months according to the Gregorian Calendar counted from the Effective date of this Contract or from the anniversary of such effective date.
- 2.10 *Production and Development Area* means that the portion of the Coal Contract Area where coal reserves in commercial quantity is delineated

jointly by the OPERATOR and the ENERGY RESOURCE DEVELOPMENT BUREAU.

- 2.11 *Gross Income* means the gross proceeds from the sale of coal produced under the contract and sold during the taxable year at posted or market price, as the case may be, all as determined pursuant to Section VI and such other income which are incidental to and arising from any one or more of the coal operations of the OPERATOR.
- 2.12 *Posted Price* means the FOB price established by the OPERATOR and the ENERGY RESOURCE DEVELOPMENT BUREAU for each grade, gravity and quality coal offered for sale to buyers for export at the particular point of export, which price shall be based upon geographical location and the fair market export values for coal of comparable grade, gravity and quality.
- 2.13 *Market Price* means the price which is realized for coal production under this Contract if sold in a transaction between independent persons dealing at arm's length in a free market.
- 2.14 *Government* means the Government of the Republic of the Philippines.
- 2.15 *Affiliate* means (a) a company in which an OPERATOR holds directly or indirectly at least fifty percent (50%) of its outstanding shares entitled to vote; or (b) a company which holds directly or indirectly at least fifty percent (50%) of the OPERATOR's outstanding shares entitled to vote; or (c) a company in which at least fifty percent (50%) of its shares outstanding and entitled to vote are owned by a company which owns directly or indirectly at least fifty percent (50%) of the shares outstanding and entitled to vote of the OPERATOR.
- 2.16 *Contract* means this Coal Operating Contract.
- 2.17 *Philippine Corporation* means a corporation organized under Philippine Laws at least sixty (60%) of the capital of which is owned and held by citizens of the Philippines.
- 2.18 *Taxable Net Income* means the Gross Income less the deductions provided in Section VI hereof.
- 2.19 *Accounting Period(s)* means a calendar year or a fraction thereof wherein the Operator is obliged to spend certain sum of money and/or perform certain work obligations in accordance with the work program approved by the Energy Resource Development Bureau. In no case, should the total of the Accounting Periods be more than two (2) years for exploration and five (5) years of development contracts.

Section III – TERM

- 3.1 The exploration period under this Contract shall be two (2) years from the Effective Date, extendible for two (2) years if:
- a) The OPERATOR has not been in default in its exploration work obligations and other obligations;
 - b) has complied with the work program and budget submitted to the Energy Resource Development Bureau, attached hereto as Annex "C";
 - c) has provided a work obligation for the extension acceptable to the Energy Resource Development Bureau;

after which time this Contract shall automatically terminate, unless coal of commercial quantity is measured during the exploration period or extension period or at the end thereof in any area covered by the coal operating contract.

- 3.2 If coal of commercial quantity is measured, this Contract shall remain in force for development and production during the balance of the exploration period or any extension thereof and for an additional period of _____ years thereafter renewable for a series of _____ not exceeding Twelve (12) years under such terms and conditions as may be agreed by the Parties.

Section IV - WORK PROGRAM AND EXPENDITURES

- 4.1 OPERATOR shall be obliged to spend in direct prosecution of exploration work not less than _____ (____) per block annually. From the time coal reserves in commercial quantity have been determined jointly by the OPERATOR and the ENERGY RESOURCE DEVELOPMENT BUREAU, the OPERATOR shall undertake development and production of the contract area within the period agreed herein and shall be obliged to spend in the development and production of the coal contract area an amount sufficient for the purpose; Provided, further, that if during any Accounting Period, the OPERATOR shall spend more than the amount of money required to be spent, the excess may be credited against the amount of money required to be sent by the OPERATOR during the succeeding Accounting Periods except that 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 this 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 _____ meters of exploratory holes before the end of the exploration period as specified in this Contract. In addition to the remedies, the Energy Resource Development Bureau shall avail as provided in section 12.5, for purposes of this section 4.1, failure to meet the commitment to drill as provided for herein shall be deemed a failure to spend the amount committed above and the Operator shall then pay the Government the amount which is left unspent or whichever is higher.

Section V - RIGHTS AND OBLIGATIONS OF THE PARTIES

5.1 The OPERATOR shall have the following obligations:

- a) Perform all Coal Operations and provide all necessary services, technology and financing in connection therewith;
- b) Upon measurement of coal in quantities that may be commercial as determined jointly by the OPERATOR and the ENERGY RESOURCE DEVELOPMENT BUREAU delineate in consultation with the DEPARTMENT OF ENERGY the development and production area in a prudent and diligent manner and in accordance with good coal mining practices using modern methods appropriate for the geologic conditions of the coal contract area to enable maximum economic development and production of coal *within six month period*. If after such delineation, it is determined that the development and production area contains coal in commercial quantity, they are so delineated shall constitute a development and production area;
- c) Be subject to the provisions of laws of general application relating to labor, health, safety ecology, and environmental protection;
- d) Operate the area on behalf of the Government in accordance with good coal mining practices using modern methods appropriate for the geologic conditions of the area to enable maximum economic production of coal, avoiding hazards to life, health and property, avoiding pollution of air, land, waters and pursuant to an efficient and economic program of operation;
- e) Furnish the DEPARTMENT OF ENERGY promptly with all information, data and reports which it may require;
- f) Maintain detailed technical records and accounts of its operations;

- g) Conform to regulations regarding, among others, safety demarcation of the Coal Contract Area non-interference with the rights of 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 explorations, development and production sites and operations to inspectors authorized by the ENERGY RESOURCE DEVELOPMENT BUREAU.
- i) Allow representatives authorized by the ENERGY RESOURCE DEVELOPMENT BUREAU at all reasonable times full access to accounts, books and records relating to Coal Operations hereunder for tax and other fiscal purposes;
- j) Be subject to Philippine income tax;
- k) Give priority in employment to qualified personnel in the municipality or municipalities, or province where the expiration, development and production operations are located; and
- l) On or before the Effective Date of the Contract, post a bond or other guarantee of sufficient amount in favor of the Government and with surety or sureties satisfactory to the ENERGY RESOURCE DEVELOPMENT BUREAU, conditioned upon the faithful performance by the OPERATOR of any or all of the obligations under and pursuant to this Contract.

5.2 The OPERATOR shall have the following rights:

- 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 said machinery, equipment, spare parts and materials of comparable price and quality are not manufactured in the Philippines;
 - 2) Are directly and actually needed and will be used exclusively by the OPERATOR in its operations or in the operations for it by a contractor;

- 3) Are covered by shipping documents in the name of the OPERATOR to whom the shipment will be delivered direct by customs authorities; and
 - 4) The prior approval of the ENERGY RESOURCE DEVELOPMENT BUREAU 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 such machinery, equipment, spare parts and materials within the Philippines without prior approval of the ENERGY RESOURCE DEVELOPMENT BUREAU and payment of taxes due the Government; *Provided, further*, that should the OPERATOR or its contractor sell, transfer or dispose of these machinery, equipment, spare parts or materials without the prior consent of ENERGY RESOURCE DEVELOPMENT BUREAU, it shall pay twice the amount of the tax exemption granted; *Provided, finally*, that the ENERGY RESOURCE DEVELOPMENT BUREAU shall allow and approve the sale, transfer, or disposition of the said items within the Philippines without tax if made (1) to another operator under a coal operating contract; (2) for reasons of technical obsolescence; or (3) for purposes of replacement to improve and/or expand operations under the Coal Operating Contract.
- c) The entry, upon the sole approval of the ENERGY RESOURCE DEVELOPMENT BUREAU which shall not be unreasonably withheld, or alien technical and specialized personnel (including the immediate members of their families) who may exercise their professions solely for the operation of the OPERATOR as prescribed in the Contract; *Provided*, that if the employment or connection of any such alien with the OPEARATOR 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 RESOURCE DEVELOPMENT BUREAU.
- d) Have at all times the right of ingress to an egress from the Coal Contract Area and to and from facilities wherever located.

**Section VI - RECOVERY OF OPERATING EXPENSES AND ACCOUNTING
FOR PROCEEDS OF PRODUCTION**

- 6.1 In any year, OPERATOR will recover from the gross proceeds from production on under this Contract an amount equal to all Operating Expenses; Provided, that the amount so recovered shall not exceed _____ Percent (____%) of the gross proceeds from production in any year; Provided, further, that if in any year the operating cost exceeds _____ percent (____%) of the gross proceeds from the production, or there are no gross proceeds, then the unrecovered expenses shall be recovered from the gross proceeds in succeeding years.
- 6.2 The OPERATOR shall be entitled to a fee, the net amount of which shall not exceed _____ (_____) of the balance of the gross income after deducting all operating expenses.
- 6.3 In addition to the fee provided in paragraph 6.2, the OPERATOR shall be granted a special allowance the amount of which shall not exceed _____ (_____) of the balance of the gross income after deducting all operating expenses,
- 6.4 For purposes of determining gross proceeds, coal shall be valued as follows:
- a) All coal sold for consumption in the Philippines shall be valued at market price for such coal.
 - b) All coal exported shall be valued at the posted price.
 - c) Reasonable commissions or brokerage incurred in connection with sales to third parties, if any, shall be deducted from gross proceeds but shall not exceed the customary and prevailing rate.

Section VII - PAYMENTS

- 7.1 All payments which this Contract obligates the OPERATOR to make the ENERGY RESOURCE DEVELOPMENT BUREAU shall be in _____ at a bank to be designated by the ENERGY RESOURCE DEVELOPMENT BUREAU and agreed upon by the Central Bank of the Philippines, except that the OPERATOR may make such payment in _____ to the extent that such currency is realized as a result of the domestic sale of coal. All such payments shall be translated at the applicable exchange rate as defined in the Accounting Procedure attached hereto as Annex "B".

Section VIII - ASSETS AND EQUIPMENT

- 8.1 The OPERATOR shall acquire for the Coal Operations only such assets as are reasonably estimated to be required in carrying out the Coal Operations.
- 8.2 All materials, equipment, plants, and other installations erected or placed on the exploration and/or production area movable by nature by the OPERATOR shall become properties of the DEPARTMENT OF ENERGY if not removed therefrom within one year after the termination of this Contract.
- 8.3 The OPERATOR may also utilize in the Coal Operations, equipment owned and made available by OPERATOR and charges to the Coal Operations account for use of such equipment shall be made as provided for in the Accounting Procedure.

Section IX - EMPLOYMENT AND TRAINING OF PHILIPPINE PERSONNEL

- 9.1 The OPERATOR agrees to employ qualified Filipino personnel in the operations and after development and production commences will undertake, upon prior approval of the ENERGY RESOURCE DEVELOPMENT BUREAU, the schooling and training of Filipino personnel for labor and staff position, including administrative, technical and executive management positions, the OPERATOR shall undertake, upon approval of the ENERGY RESOURCE DEVELOPMENT BUREAU, a program of training assistance for ENERGY RESOURCE DEVELOPMENT BUREAU personnel.
- 9.2 Costs and expenses of training Filipino personnel for the OPERATOR's own employment shall be included in Operating Expenses Costs and expenses of a program of training for the ENERGY RESOURCE DEVELOPMENT BUREAU's personnel shall be borne on a basis to be agreed upon by the ENERGY RESOURCE DEVELOPMENT BUREAU and the OPERATOR.

Section X - TERMINATION

This Contract shall be terminated and the OPERATOR shall be relieved of its obligations.

- 10.1 As provided in Section 3.1 hereof; or

- 10.2 On expiration of the term, or any extension thereof provided for in Section 3.2 hereof.

Section XI - BOOKS AND ACCOUNTS AND AUDITS

11.1 *Books and Accounts*

The OPERATORS shall be responsible for keeping complete books and accounts, reflecting all transactions in connection with Coal Operations in accordance with Accounting Procedure attached hereto as Annex "B".

11.2 *Audits*

The ENERGY RESOURCE DEVELOPMENT BUREAU shall have the right to inspect and audit OPERATOR's books and accounts relating of this Contract for any Calendar Year within the one (1) year period following the end of such Calendar year. Any such audit will be completed within twelve (12) months after this commencement. Any exception must be made in writing within sixty (60) days following the completion of such audit.

Section XII - OTHER PROVISIONS

12.1 *Notices*

Any notice required or given by either party to the other PARTY shall be in writing and shall be effective when a copy thereof is handed to or served upon the PARTY's duly designated representative or the person in charge of the office of place of business; or when sent by registered mail, notice shall be effective upon actual receipt by the addressee, but if he fails to claim his mail from the post office within five (5) days from the date of the first notice of the postmaster, service shall take effect at the expiration of such time. All such notices shall be addressed to:

To the First Party –

Department of Energy
Energy Center
Merritt Road, Ft. Bonifacio
1201 Taguig City

To the Second Party –

Any Party may substitute or change such address on written notice thereof to the others.

12.2 *Governing Law*

The laws of the Republic of the Philippines shall apply to this Contract. In addition, the provisions and requirements embodied in BED Circular No. _____ as well as other implementing rules and regulations of Presidential Decree No. 972, as amended which shall be issued on the Department of Energy or its successor are incorporated in whole to form an integral part of this contract.

12.3 *Suspension of Obligations*

- a. Any failure to delay on the part of either PARTY in the performance of its obligations or duties hereunder shall be excused to the extent attributable to force majeure.
- b. If operations are delayed, curtailed or prevented by such causes, then the time for enjoying the rights and carrying out the obligations hereby affected, and all rights and obligations hereunder shall be extended for a period equal to the period thus involved, except that the term of this contract as provided in Section III hereof shall not thereby be extended.
- c. Force majeure shall include Acts of God, unavoidable accidents, acts of war or conditions arising out of or attributable to war (declared or undeclared), laws, rules, regulations and orders by any government or governmental agency, strikes, lockouts and other labor disturbances, delays in transportation, floods, storms, and other natural disturbances, insurrections, riots, and other civil disturbances and all others beyond the control of the PARTY concerned; *Provided, however*, that as to the DEPARTMENT OF ENERGY only, laws, rules and regulations and orders by the Government or any government agency of the Republic of the Philippines shall not be constitute Force Majeure.
- d. The PARTY whose ability to perform its obligations is so affected shall notify the other PARTY thereof in writing stating the cause and both PARTIES shall do all reasonably within their power to remove such cause.

12.4 *Assignments*

The rights and obligations of Second Party under this Contract shall not be assigned or transferred without the prior approval of the ENERGY RESOURCE DEVELOPMENT BUREAU; *Provided*, that such transfer or assignment maybe made only to a qualified person possessing the resources and capability to continue the mining operation of this Contract and that the OPERATOR has complied with all the obligations of this Contract.

12.5 *Cancellation of Contract*

In the event the Operator commits a breach of the obligations on their Contract, as well as the provisions of Presidential Decree No. 972, as amended, the BED Circular and other applicable implementing rules and regulations to be issued by the ENERGY RESOURCE DEVELOPMENT BUREAU, the Department of Energy shall have the power to cancel and annul this contract with/or without demand and notice to the Operator and without prejudice to its right to enforce on the performance bond provided in section 5.1 (1) to satisfy any and all obligations due to the Department of Energy.

Section XIII - EFFECTIVENESS

13.1 This Contract shall come into effect of the Effective Date.

IN WITNESS WHEREOF, the PARTIES hereto have executed this Contract as of the day and year first above written.

By: _____

DEPARTMENT OF ENERGY
By:

ANGELO T. REYES
Secretary

BED-N-COAL-3

Republic of the Philippines
DEPARTMENT OF ENERGY
Manila

(MODEL)

Annex "B"

ACCOUNTING PROCEDURES

Attached to and integral part of the Coal Operating Contract between the Energy Resource Development Bureau and Operator dated.

Article I - General Provisions

1. Definitions

- a. The accounting procedures herein provided for are to be followed and observed in the performance of all obligations under the Contract to which this Exhibit is attached. The terms appearing in this Annex "B" shall have the same meaning as those defined in this Contract.
- b. For the purposes of Article II, Paragraphs 10 and 11, OPERATOR herein shall refer to the *party* designated, in accordance with the OPERATOR's operating agreement, to conduct the operations in the contract area for the joint account of the OPERATOR.

2. Accounts and Currency Exchange

OPERATOR shall maintain accounting records for the Coal Operations in accordance with generally accepted accounting practices used in the coal industry and in such manner that all revenues and expenditures will be segregated or can be allocated to appropriate Coal Contract Areas.

3. Statements

In implementation of Section VI of the Contract, the OPERATOR shall render to the Energy Resource Development Bureau a statement of all charges and credits to the Operations summarized by appropriate classifications indicative of the nature thereof.

4. Adjustments

Subject to the provisions of Section 11.2 of the Contract, all statements rendered to the ENERGY RESOURCE DEVELOPMENT BUREAU by the OPERATOR during any calendar year shall conclusively be presumed to be true, correct and reasonable unless within the period provided in said section, the ENERGY RESOURCE DEVELOPMENT BUREAU takes written exception thereto and makes claim on the OPERATOR for adjustments. Failure on the part of the ENERGY RESOURCE DEVELOPMENT BUREAU to make written claim on the OPERATOR for adjustments within such period shall establish the correctness and reasonableness thereof and preclude the filing of exceptions thereof or making of claims for adjustments thereon.

OPERATOR shall within thirty (30) days from receipt or written notice, question the validity of any exceptions or claims for adjustments made by the Energy Resource Development Bureau otherwise the same shall become final and binding with the OPERATOR.

5. Audits

Audits shall be conducted in the manner and the times stipulated by Section XI of the Contract.

6. Conflicts

If there should be any conflict between the provisions of this Accounting Procedures and the Contract, the latter shall control.

Article II - Operating Expenses

Subject to the provisions of the Contract and limitations herein prescribed, the OPERATOR shall charge the Operating Expenses with the following items:

1. Surface Rights

All direct costs attributable to the acquisition, renewal or relinquishment of surface rights acquired and maintained in force for the operations hereunder when paid by the OPERATOR in accordance with the provisions of the Contract including processing fees, bid monies, bonuses, rentals and other payments made to the ENERGY RESOURCE DEVELOPMENT BUREAU, except the cost attributable to posting the performance guaranty deposits under this Contract.

2. *Labor*

- a. Salaries and wages of OPERATOR's employees directly engaged for the benefit of the Operations in the exploration, development, maintenance and operation of the Coal Control Area but shall not include personnel permanently stationed in the home office or in any other office of the OPERATOR located outside of the Philippines. Salaries and wages shall include everything constituting gross pay to employees as reflected on the OPERATOR's payroll. To the extent not included in the salaries and wages, the Operating Expenses shall also be charged with overtime, rest day, pay holiday, vacation pay and vacation travel pay, sickness and disability benefits, bonuses and other customary allowances applicable to the salaries and wages chargeable hereunder and in Paragraph 10 of this Article II.
- b. Costs of expenditures or contributions made pursuant to assessments imposed by governmental authority which are applicable to OPERATOR's labor cost of salaries and wages as provided for under Sub-paragraph 2A and Paragraph 10 of this Article II.

3. *Employee Benefits*

- a. For OPERATOR's employees participating under "Home Office Based" benefits plan, the OPERATOR's cost of established plans for employees group life insurance; health insurance, pension, retirement, thrift and other benefits of a like nature shall be charged at a percentage rate based on the OPERATOR's cost experience for the preceding year applied to the amount of salaries and wages chargeable under Sub-paragraph 2A and Paragraph 10 of this Article.
- b. OPERATOR's employees participating in "non-home office based" benefit plans shall be charged at a percentage rate reflecting actual payments or accruals made by the OPERATOR applicable to such employees; actual payments against any amounts accrued will not be chargeable to the Operating Expenses.
- c. The OPERATOR's cost experience rates in 3.B above shall be re-determined during the first quarter of the following year and charges for Operating Expenses will be adjusted accordingly.

4. *Material*

Material equipment and supplies purchased or furnished and used by the OPERATOR in the operations and which are not classified as tangible investments under Paragraph 12 of this Article II. Price shall include such costs as export broker's fees, purchasing agent's fees, transportation

charges, loading and unloading fees and license fees associated with procurement of materials and equipment, duties and customs fees, installation costs, and in-transit losses not recovered through insurance. The OPERATOR BEDs not warrant the materials purchased for the Coal Operations beyond the dealer's or manufacturer's guarantee, and in case of defective materials credit shall not be passed until adjustment has been received the OPERATOR from the manufacturer or its agents.

5. *Transportation*

Transportation of employees, equipment, materials and supplies necessary for the Operations. Employees costs will include travel costs for employees and their families paid by the OPERATOR in conformity with the OPERATOR's established Policy Manual. Transportation costs for returning employees and his family to their Country or Origin shall be chargeable to the Operating Expenses provided that Operating Expenses shall not be charged expenses incurred in moving an employee beyond his point of origin established at the time of his transfer to the Philippines.

6. *Services*

- a. Outside Services – The cost of consultant's contract services and utilities procured from outside sources including all such services as are rendered in connection with geological, geophysical, drilling and development activities.
- b. In the event the OPERATOR, from time to time, utilizes skilled personnel not regularly residing in the Philippines for performance of services either in the Philippines or elsewhere for the benefit of the Coal Operations, whose time in full or in part is not otherwise charged hereunder, a proper proportion of the direct and indirect salary and travel expenses of such personnel (including reasonable living expenses while in the Philippines) together with any tax on such salaries or otherwise imposed upon the employees' service in the Philippines which are parable to the Philippine Government and for which the OPERATOR assumed responsibility, and any accident or sickness compensation and/or hospitalization cost incurred shall be charged to Operating Expenses.
- c. Data processing and computer services acquired for the direct benefit of the Operations may be contracted through third parties or by arrangement for time rental of computer services from the OPERATOR's affiliates even though such computer facilities are physically located outside the country. In other case, contracts for computer services must be competitively priced. Charges to the Operating Expenses under this provision for services directly benefiting the Operations shall be in addition to the charges allowed under Paragraphs 10 and 11 of this Article II.

d. Use of Exclusively Owned Facilities

1. Equipment owned by the second party/parties, or any affiliate or either of them, and not previously charged to the Operating Expenses, either directly or indirectly, may be utilized in the Operations. For the use of any such wholly-owned equipment, the Operating Expenses shall be charged a rental rent commensurate with the cost of ownership and operation, but not to exceed commercial rates for the use of like equipment. Depreciation to be charged shall be in accordance with Section 8, Sub-section 8.3 of the Coal Operating Contract.
2. A fair rate shall be charged for laboratory services performed by the second party/parties or their affiliates for the benefit of the Coal Operations, such as but not limited to gas, water, core and any other analyses and tests provided such charges shall not exceed those currently prevailing if performed by outside technical service companies

7. *Damages and Losses*

All costs or expenses necessary to replace or repair damages or losses not recovered from insurance incurred by fireflood, storm, theft, accident, or any other cause not controllable by the OPERATOR through the exercise of reasonable diligence. The OPERATOR shall furnish the ENERGY RESOURCE DEVELOPMENT BUREAU written notice of damages or losses incurred as soon as practicable after report of the same has been received by the OPERATOR.

8. *Legal Expenses*

All costs and expenses of litigation, or legal services otherwise necessary or expedient for the protection of the joint interests, including attorney's fees and expenses as hereinafter provided, together with all judgments obtained against the PARTIES or any of them on account of the Coal Operations, and actual expenses incurred in securing evidence for the purpose of defending against any action on or claims affecting interests under the Contract shall be handled by the legal staff of one or more of the PARTIES, a charge commensurate with cost of providing and furnishing such services may be made against the Operating Expenses. However, legal costs and/or expenses incurred in securing and/or negotiating the Coal Operating Contract are not chargeable to Operating Expenses.

9. *Insurance Claims*

- a. Premiums paid for insurance required to be carried for the Coal Operations conducted under the Contract, together with all the

expenditures incurred and paid in settlement of any all losses, claims, damages, judgments, and other expenses, including legal services not recovered from insurance carrier.

- b. All actual expenditures incurred and paid by the OPERATOR in settlement of any and all losses, claims, damages, judgments and any other expense not covered by insurance, including legal services, shall be charged to the Operating Expenses.

10. *Administrative Overhead – Inside the Philippines*

- a. Principal Office - as used herein means costs and expenses incurred by the OPERATOR for an office and staff established in Manila which may serve all activities in the Philippines including the Coal Operations under the Contract. Allocation of such costs and expenses between the OPERATOR's other activities and Coal Operations activities hereunder shall be made on actual expenditures or other equitable basis. Examples of such Principal Office services which are chargeable to the Operations include, but are not necessarily limited to the following:

- a. Local manager and staff
- b. Accounting
- c. Legal
- d. Personnel Administration
- e. Communications
- f. Purchasing

- b. District Office(s) – as used herein means the costs and expenses incurred by the OPERATOR for an office(s) which may be established to serve the Operations in the vicinity of the Operations. Allocation of such costs and expenses between the OPERATOR's other activities and the Operation activities hereunder shall be made on actual expenditures or other equitable basis. Examples of such District Office(s) services which are chargeable to the Operations include, but are not necessarily limited to the following:

- a. Field or District Superintendent and Staff
- b. Geological and Geophysical Staff
- c. Engineering and Production Staff
- d. Communication
- e. Camp and Commissary Facilities
- f. Clerical Staff

11. *Other Expenses*

Any expenditures which are covered and dealt with by the foregoing provisions of this Article II necessarily incurred by the OPERATOR for the Operations hereunder.

12. *Recovery of Capital Expenditures*

a. *Tangible Investment*

The initial costs of all physical assets classified as depreciable in accordance with generally accepted COAL industry accounting principles purchased, fabricated by and/or for the contractor and used by contractor in its operations shall include such costs as export broker's fee, purchasing agent's fees, transportation charges, loading and unloading fees, license fees associated with the procurement of materials and equipment, duties and customs fees, in-transit losses not covered thru insurance and installation costs necessary to put the asset ready for use. The total cost of the asset shall be allocated to operating expenses in accordance with the provisions of P. D. 972, as amended.

b. *Leasehold Improvements*

Improvements or betterments on leasehold which are capitalizable in accordance with generally accepted coal industry accounting practice shall be allocated to Operating Expenses in accordance with the depreciation principle established in paragraph 12-A above.

**REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF ENERGY
PROPOSED DEVIATIONS FROM MODEL CONTRACT**

**APPLICANT
BLOCK/AREA APPLIED FOR**

MODEL PROVISION	PROPOSED CHANGES	REASON

BED-N-COAL-4

