



HOUSE OF REPRESENTATIVES

H. No. 9293

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AN ACT ESTABLISHING THE PHILIPPINE ATOMIC ENERGY REGULATORY AUTHORITY AND PROVIDING FOR A COMPREHENSIVE LEGAL FRAMEWORK FOR NUCLEAR

**SAFETY, SECURITY, AND SAFEGUARDS IN THE
PEACEFUL UTILIZATION OF NUCLEAR ENERGY IN THE
PHILIPPINES, AND APPROPRIATING FUNDS THEREFOR**

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

**ARTICLE 1
OBJECTIVES AND INTERPRETATION**

SECTION 1. *Short Title.* – This Act shall be known as the “Philippine
National Nuclear Energy Safety Act”.

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the
State to:

(a) Harness the peaceful, safe, and secure use of atomic energy to
provide benefits to the Philippines in the fields of energy production, health
and medicine, scientific research, agriculture, industry, education, and others;
and

(b) Use nuclear energy only for peaceful purposes, such that all
facilities and activities related to the acquisition or development of nuclear
explosives, radiological dispersal devices and other non-peaceful uses of
nuclear or other radioactive material or technology, including assisting others,
are strictly prohibited.

SEC. 3. *Objectives.* – The objectives of this Act are to:

(a) Establish a legal framework to govern and facilitate the peaceful,
safe, and secure uses of nuclear energy;

(b) Protect people and the environment against the harmful effects of
ionizing radiation;

(c) Establish the Philippine Atomic Energy Regulatory Authority,
otherwise known as the PhilATOM, hereinafter referred to as the Authority,
with the functions and responsibilities set forth in this Act; and

(d) Enable the Philippines to meet its international obligations on
the use of nuclear energy.

SEC. 4. *Scope.* –

(a) This Act shall apply to the Philippines.

(b) This Act shall not apply to all regulated facilities and activities in
the territory, or under the jurisdiction or control, of the facilities or activities

1 that have been excluded from regulatory control through regulations issued by
2 the Authority.

3 **SEC. 5. Definitions.** – (a) As used in this Act:

4 (1) *Activities and facilities* refer to the activities and facilities as
5 defined by the International Atomic Energy Agency (IAEA);

6 (2) *Authority* refers to the Philippine Atomic Energy Regulatory
7 Authority, otherwise known as “PhilATOM” established in this Act;

8 (3) *Authorization* refers to the written permission, in the form of a
9 license, certificate, registration or other approval, granted by the Authority to
10 a person to conduct specified activities;

11 (4) *Authorized Party* refers to the holder of an authorization;

12 (5) *Boiling Water Reactor (BWR)* refers to a type of light water
13 reactor, which uses the steam produced inside the reactor core directly in the
14 steam turbine;

15 (6) *Clearance* refers to the removal of regulatory control by the
16 Authority from radioactive material or radioactive objects within authorized
17 facilities and activities;

18 (7) *Controlled items* refer to nuclear related items specified in
19 Information Circular (INFCIRC)/254/Part 1 issued by the IAEA and are also
20 known as trigger list items in the Nuclear Suppliers Group’s guidelines and
21 dual-use items specified in INFCIRC/254/Part 2 issued by the IAEA including
22 components thereof;

23 (8) *Decommissioning* refers to the administrative and technical
24 actions taken to allow the removal of some or all of the regulatory controls
25 from a facility so the facility and its site can be reused;

26 (9) *Device* refers to either (1) any nuclear explosive device; or (2) any
27 radioactive material dispersal or radiation-emitting device which may, owing
28 to its radiological properties, cause death, serious bodily injury or substantial
29 damage to property or to the environment;

30 (10) *Disposal* refers to the emplacement of waste in an appropriate
31 facility without the intention of retrieval;

32 (11) *Dose limit* refers to the value of the effective dose or the
33 equivalent dose to individuals in planned exposure situation that is not to be
34 exceeded;

35 (12) *Effective Dose* refers to the meaning given it in the relevant IAEA
36 Safety Standard;

1 (13) *Equivalent Dose* refers to the meaning given it in the relevant
2 IAEA Safety Standard;

3 (14) *Exclusion or excluded* refers to the deliberate exclusion of a
4 particular type of exposure from the scope of an instrument of regulatory
5 control on the grounds that it is not considered amenable to control through
6 the regulatory instrument in question;

7 (15) *Exemption or exempt* refers to the determination by a regulatory
8 body that a source or practice need not be subject to some or all aspects of
9 regulatory control on the basis that the exposure and the potential exposure
10 due to the source or practice are too small to warrant the application of those
11 aspects or that this is the optimum option for protection irrespective of the
12 actual level of the doses or risks;

13 (16) *Export* refers to the transfer of nuclear or other radioactive
14 material out of the Philippines;

15 (17) *IAEA Safety Standard* refers to the safety standards published by
16 the IAEA in its Safety Standards Series;

17 (18) *Import* refers to the transfer of nuclear or other radioactive
18 material into the Philippines;

19 (19) *Intermediate Level Waste (ILW)* refers to a radioactive waste that,
20 because of its content, in particular its content of long lived radionuclides,
21 requires greater degree of containment isolation than that provided by near
22 surface disposal;

23 (20) *Intervention* refers to any action intended to reduce or avert
24 exposure or the likelihood of exposure due to sources that are not part of a
25 controlled practice or that are out of control as a consequence of an accident;

26 (21) *Ionizing radiation*, for the purpose of radiation protection, refers
27 to radiation capable of producing ion pairs in biological materials;

28 (22) *Heavy Water Reactor (HWR)* refers to a thermal reactor that
29 utilizes heavy water (deuterium oxide) as its coolant and moderator, such as
30 CANDU (CANada Deuterium Uranium);

31 (23) *Light Water Reactor (LWR)* refers to a thermal reactor that
32 utilizes ordinary water as its coolant and moderator, including boiling water
33 reactors (BWRs) and pressurized water reactor (PWRs);

34 (24) *Low Level Waste (LLW)* refers to a radioactive waste that is above
35 clearance levels, but with limited amounts of long-lived radionuclides;

36 (25) *Nuclear energy*, also called *atomic energy*, refers to any form of
37 energy released in the course of nuclear fission, nuclear fusion or any other
38 nuclear transmutation;

1 (26) *Nuclear facility* refers to a facility, including associated buildings
2 and equipment, in which nuclear material is produced, processed, used,
3 handled, stored or disposed of;

4 (27) *Nuclear material* refers to plutonium except that with isotopic
5 concentration exceeding eighty percent (80%) in plutonium-238, uranium-233,
6 uranium enriched in the isotope 235 or 233, uranium containing the mixture
7 of isotopes as occurring in nature other than in the form of ore or ore residue,
8 any material containing one or more of the foregoing or any other material the
9 Authority determines should be classified as nuclear material;

10 (28) *Nuclear or radiological emergency* refers to an emergency in
11 which there is, or is perceived to be, a hazard due to: (a) the energy resulting
12 from a nuclear chain reaction or from the decay of the products of a chain
13 reaction; or (b) radiation exposure;

14 (29) *Orphan source* refers to a radioactive source which is not under
15 regulatory control, either because it has never been under regulatory control
16 or because it has been abandoned, lost, misplaced, stolen, or transferred
17 without proper authorization;

18 (30) *Person* refers to a natural or juridical person;

19 (31) *Practice* refers to any human activity that introduces additional
20 sources of exposure or additional exposure pathways, or that modifies the
21 network of exposure pathways from existing sources, so as to increase the
22 exposure or the likelihood of exposure of people or the number of people
23 exposed;

24 (32) *Pressurized Water Reactor (PWR)* refers to a type of light water
25 reactor, which produces steam for the turbine in separate steam generators;

26 (33) *Radiation source* refers to a radiation generator, or a radioactive
27 source or other radioactive material outside the nuclear fuel cycles of research
28 and power reactors;

29 (34) *Radiation generator* refers to a device capable of generating
30 ionizing radiation, such as X-rays, neutrons, electrons or other charged
31 particles, that may be used for scientific, industrial or medical purposes, or
32 other purposes as the Authority may determine from time to time;

33 (35) *Radioactive source* refers to a source containing radioactive
34 material that is used as a source of radiation;

35 (36) *Radioactive material* refers to (a) a radioactive source; (b) nuclear
36 material; (c) a substance that is capable of releasing nuclear energy or is
37 required for the production or use of nuclear energy; (d) a radioactive by-
38 product of the development, production or use of nuclear energy; and (e) any

1 other material that the Authority determines should be classified as
2 radioactive material;

3 (37) *Radioactive waste* refers to material for which no further use is
4 foreseen that contains, or is contaminated with, radionuclides at activity
5 concentrations greater than clearance levels as established by the regulatory
6 body;

7 (38) *Safeguards Agreements* refer to the agreements between the
8 Republic of the Philippines and the IAEA for the Application of Safeguards in
9 connection with the Treaty on Non-Proliferation of Nuclear Weapons and the
10 Protocol Additional to the Agreement between the Republic of the Philippines
11 and the IAEA for the Application of Safeguards in connection with the Treaty
12 on the Non-Proliferation of Nuclear Weapons;

13 (39) *Safety* refers to the achievement of proper operating conditions,
14 prevention of accidents and mitigation of accident consequences, resulting in
15 protection of workers, the public and the environment from undue radiation
16 risks;

17 (40) *Security* refers to the prevention and detection of, and response to,
18 criminal or intentional unauthorized acts involving or directed at nuclear
19 material, other radioactive material, associated facilities or associated
20 activities;

21 (41) *Source* refers to anything that may cause radiation exposure –
22 such as by emitting ionizing radiation or by releasing radioactive substances
23 or radioactive material – and can be treated as a single entity for purposes of
24 protection and safety;

25 (42) *Spent fuel* refers to nuclear fuel removed from a reactor following
26 irradiation that is no longer usable in its present form; and

27 (43) *Transport* refers to the deliberate physical movement of
28 radioactive material, other than that forming part of the means of propulsion,
29 from one place to another.

30 (b) Notwithstanding Section 5(a) herein, where a term has a particular
31 meaning in an international instrument to which the Philippines is a party, it
32 shall have that meaning when used in the relevant context.

33 **ARTICLE 2**

34 **ESTABLISHMENT AND FUNCTIONS OF THE PHILIPPINE** 35 **ATOMIC ENERGY REGULATORY AUTHORITY**

36 **SEC. 6. *Establishment of the Authority.* –**

1 The Philippine Atomic Energy Regulatory Authority, otherwise known
2 as “PhilATOM” or the “Authority”, is hereby established as an independent
3 authority.

4 The Authority shall have sole and exclusive jurisdiction to exercise
5 regulatory control for the peaceful, safe, and secure uses of nuclear energy and
6 radiation sources in the Philippines.

7 All regulatory functions of the Philippine Nuclear Research Institute
8 (PNRI) are hereby transferred to the Authority.

9 All regulatory functions regarding devices generating ionizing radiation
10 of the Radiation Regulation Division of the Center for Device Regulation,
11 Radiation, Health and Research of the Department of Health – Food and Drug
12 Administration are hereby transferred to the Authority.

13 The regulatory functions of all other Government authorities or
14 agencies of the Philippines with jurisdiction, functions, and authorities with
15 respect to nuclear energy and radiation sources are hereby transferred to the
16 Authority.

17 To the extent other Philippine authorities have functions and
18 responsibilities that intersect with the functions and responsibilities of the
19 Authority, effective coordination of these functions and responsibilities shall
20 be ensured to avoid omissions, undue duplication, or conflicting requirements
21 being placed on authorized parties, at all times respecting the sole and
22 exclusive jurisdiction of the Authority as set forth in this Act.

23 **SEC. 7. Director General and Deputy Directors General of the Authority.**
24 – The head of the Authority shall be the Director General (DG), with a salary
25 grade of thirty-one (31), who shall be appointed by the President of the
26 Philippines for a term of five (5) years. Reappointment of the DG for five (5)
27 years per term is allowed.

28 The Director General shall be assisted by four (4) Deputy Directors
29 General (DDGs), with a salary grade of thirty (30), who shall be appointed by
30 the President of the Philippines. The initial appointment shall be for a term of
31 five (5) years, four (4) years, three (3) years, and two (2) years, respectively.
32 Reappointment of the DDGs for five (5) years per term is allowed.

33 Appointment to any vacancy for the positions of DG and DDGs shall
34 only be for the unexpired term of the predecessor.

35 No person shall qualify for appointment under this section unless such
36 person:

37 (a) Is a Filipino citizen;

38 (b) Has at least a graduate degree in one of the following:

- (1) Engineering, specifically:
 - (i) Power (thermal);
 - (ii) Mechanical;
 - (iii) Electrical;
 - (iv) Chemical;
 - (v) Material Science; or
 - (vi) Nuclear.
 - (2) Physics, specifically:
 - (i) Medical/health; or
 - (ii) Nuclear.
 - (3) Allied Medical Sciences in Radiation Protection.
 - (4) Geology:
 - (i) Geochemistry;
 - (ii) Geophysics;
 - (iii) Structural Geology;
 - (iv) Seismology; or
 - (v) Volcanology.
 - (5) Chemistry:
 - (i) Geochemistry;
 - (ii) Inorganic Chemistry;
 - (iii) Nuclear Chemistry; or
 - (iv) Radio Chemistry.
 - (6) Other relevant qualifications, such as
 - (i) Nuclear law experts; and
 - (c) Has primary experience in management or the practical application in the field of discipline and profession, involving facilities or activities as covered in this Act.
- The DG and DDGs shall not have a conflict of interest with the functions of the Authority, and shall possess a demonstrated history of maintaining positions of trust and confidence. It is advised that the DG and DDGs shall not have a history of advocating against, or otherwise taking

positions that are contrary to, the utilization of nuclear energy in the Philippines.

The Council shall be composed of a combination of at least: one (1) radiation expert; two (2) engineers; one (1) physicist or chemist; or one (1) geologist or physicist; or one (1) nuclear lawyer.

The DG and DDGs may be removed from office by the President of the Philippines only in cases of non-compliance with the provisions of this Act, malfeasance, abuse of office, physical or mental incapacity for more than ninety (90) days, requirements of public interest, or conviction of a criminal act.

SEC. 8. *Organization of the Authority; Human and Financial Resources.*

–

(a) The PhilATOM Council shall be the highest body of the Authority. The PhilATOM Council shall be comprised of the DG and the DDGs. The DG shall be the Chairperson of the PhilATOM Council.

(b) The PhilATOM Council shall meet at the direction of the Chairperson, at least once every two (2) months. The PhilATOM Council shall be quorate if the majority of the members, including the Chairperson, are present. Decisions of the PhilATOM Council shall be taken by a majority vote.

(c) The PhilATOM Council shall have the following functions and responsibilities:

(1) Establish the general policy of the Authority and its strategic plans;

(2) Adopt the annual budget and balance sheet of the Authority;

(3) Adopt the organizational structure of the Authority;

(4) Issue regulations, standards and guides of the Authority;

(5) Adopt the schedule of fees and charges for authorizations;

(6) Issue authorizations for nuclear and radiation facilities and its associated activities; and

(7) Any other functions designated by the President.

(d) The DG shall be responsible for the overall management of the Authority and shall supervise the administrative, technical, and financial affairs of the Authority.

(e) The Authority shall be provided with adequate financial resources, through the national budget, to fulfil its responsibilities under this Act and applicable regulations.

1 (f) The DG shall be responsible for determining the organization of
2 the Authority and in appointing human resources to the Authority.

3 (g) The Authority shall employ a sufficient number of qualified and
4 competent human resources, commensurate with the nature and the number
5 of facilities and activities to be regulated, to perform its functions and to
6 discharge its responsibilities.

7 (h) Personnel appointed to the Authority shall not have any direct or
8 indirect interest in facilities and activities or authorized parties beyond the
9 interest necessary for regulatory purposes.

10 (i) The Authority shall prepare its annual budget and submit it to
11 the Department of Budget and Management for inclusion in the National
12 Expenditure Program to be transmitted to Congress.

13 (j) The Authority shall establish a schedule of fees and charges for
14 authorizations subject to the general accounting rules and guidelines by the
15 Commission on Audit (COA).

16 (k) The Authority is authorized to charge and collect reasonable fees
17 in the performance of its regulatory functions.

18 (l) A universal charge (UC) of a maximum of Php 0.005/kWh shall be
19 collected by the electricity providers from all electricity end-users, to be
20 determined at the start of the fiscal year by the ERC in coordination with the
21 Development Budget Coordination Committee (DBCC) based on the annual
22 operational requirements of the Authority, subject to the evaluation of the
23 Department of Budget and Management (DBM) to complete the maximum
24 Php 0.005/kWh equivalent UC collection annual budget of the PhilATOM. The
25 funds shall be administered by the National Transmission Corporation
26 (TransCo): *Provided*, That the imposition of the UC shall in no case exceed ten
27 (10) years from the date of the effectivity of this Act.

28 As administrator of the fund, the TransCo shall create a special trust
29 fund with the Development Bank of the Philippines (DBP) which shall be
30 automatically released to the PhilATOM every 15th day of the month following
31 its collection.

32 The Fund shall be used exclusively by the PhilATOM in an open and
33 transparent manner for the following purposes:

- 34 (1) Construction of buildings or acquisition of office and laboratory
35 space;
36 (2) Human resource development and expansion, including the
37 hiring of local or foreign consultants;
38 (3) Purchase of equipment and motor vehicles;
39 (4) Upgrading of its facilities, equipment, and maintenance; and

1 (5) Other operating expense of the Authority in the performance of
2 its mandate to ensure adequate protection to the public and the environment.

3 (m) The Authority shall be entitled to receive and retain all funds
4 allocated to it and shall have the financial independence to deal with its
5 funds and income consisting of the following:

6 (1) Income generated by carrying out its regulatory functions; and

7 (2) Contributions, grants, bequests, and donations, in cash or in
8 kind, whether from local or foreign sources which the Authority resolves to
9 accept and do not conflict with the Authority's mandate shall be exempt from
10 donor's tax and the same shall be considered as allowable deduction from gross
11 income for purposes of computing the taxable income of the donor, in
12 accordance with Section 34(H)(2)(A) of the National Internal Revenue Code of
13 1997, as amended. The acceptance of grants, bequests, contributions, and
14 donations from foreign governments shall be subject to the approval of the
15 President of the Philippines, upon the recommendation of the Secretary of the
16 Department of Foreign Affairs (DFA) or the Secretary of the Department of
17 Finance (DOF), whichever is applicable.

18 All income that the Authority is allowed to retain under this section,
19 any provision of law to the contrary notwithstanding, shall be deposited in an
20 authorized government depository bank as a special regulatory fund. Any
21 interest earned by such fund shall form part of the retained income. Such fund
22 shall be used primarily for the acquisition of office and laboratory space,
23 human resource development and expansion, purchase of equipment and
24 motor vehicles, upgrading of its current facilities and equipment and
25 maintenance, expenses in case of legal actions against the officials and
26 employees of the Authority in the course of the exercise of their official
27 functions and duties, and other operating expenses of the Authority in the
28 performance of its mandate or independence.

29 The retention, use, and application of this fund shall not be delayed,
30 amended, altered, or modified, or affected in any way by an order or directive
31 from any executive office but shall be subject to the general accounting rules
32 and guidelines by the Commission on Audit. The primary purpose of the fund
33 as herein stated shall prevail over any other purpose that may be pursued by
34 the Authority on its own initiative. The Authority shall submit to the
35 Secretary of Budget and Management and the Congressional Oversight
36 Committee, created under Section 52 of this Act, a report on its collection, how
37 the funds were utilized, including the accomplishments.

38 (n) The Authority shall establish and implement a management
39 system that is aligned with its safety goals and contributes to their
40 achievement. The management system shall be continuously assessed and
41 improved.

(o) A land area equivalent to at least ten (10) hectares out of the lands under the administration of the Bases Conversion and Development Authority within the Clark Special Economic Zone in Pampanga and Tarlac, shall be allocated exclusively for the PhilATOM office: *Provided, That the PhilATOM or the Authority shall establish additional offices in strategic areas as it may deem necessary: Provided, further, That the boundaries and technical descriptions of the land in the Clark Special Economic Zone to be designated for the use of the PhilATOM or the Authority shall be determined by an actual and joint group survey.*

SEC. 9. *Regulatory Functions and Responsibilities.* –

(a) The Authority shall exercise the following functions and responsibilities:

(1) Assist the Government in the development of national policies and measures for the control of regulated activities and facilities;

(2) Issue regulations, standards, and guidelines necessary for the implementation of this Act;

(3) Review and assess applications for authorizations and other information submitted to it by prospective and existing authorized parties;

(4) Issue, suspend, modify, renew, and revoke authorizations and set terms and conditions of such authorizations;

(5) Define exclusions from regulatory control;

(6) Establish and maintain a national register of radiation sources;

(7) Inspect, monitor and assess facilities and activities for the purpose of verifying compliance with this Act, applicable regulations and the terms and conditions of authorizations;

(8) Take enforcement measures in the event of non-compliance with this Act, applicable regulations or the terms and conditions of authorization;

(9) Inform and consult with the public and other stakeholders regarding regulatory processes through appropriate mechanisms and procedures that shall be established by it;

(10) Cooperate with the IAEA;

(11) Cooperate with and advise other governmental or non-governmental bodies in the Philippines having competence in health and safety, environmental protection, land use and planning, emergency planning, security, transportation of dangerous goods, and energy planning;

1 (12) Exchange information and cooperate directly with regulatory
2 bodies in other States and with relevant international organizations
3 concerning matters arising from its functions and responsibilities;

4 (13) Establish a training center and scholarship programs for the
5 human resources of the Authority with respect to the mandate and areas of
6 competency of the Authority;

7 (14) Install and maintain a radiation monitoring center;

8 (15) Establish and maintain an emergency response center and a
9 security support center;

10 (16) Conduct research in areas related to its mandate;

11 (17) Regulate technical service providers of facilities and equipment
12 related to the use of ionizing radiation;

13 (18) Establish mechanism for the formal recognition and accreditation
14 of qualified experts and radiation protection officers; and

15 (19) Any other functions and responsibilities that are necessary in its
16 judgment to fulfil its mandate as set forth in this Act.

17 (b) In times of national emergency when public interest so requires
18 and as a measure of last resort, the Authority may temporarily suspend, take
19 over or direct the operation of any nuclear facility or the conduct of any
20 nuclear activity or other radioactive material or regulated facility during such
21 emergency and under reasonable terms as may be required under the
22 circumstances.

23 (c) The Authority shall ensure that regulatory control is stable and
24 consistent.

25 (d) Further to paragraph (a)(2) of this section, the Authority shall
26 issue regulations, standards, and guidelines to specify the principles,
27 requirements, and associated criteria upon which its regulatory judgments,
28 decisions, and actions are based. These regulations, standards, and
29 guidelines shall be:

30 (1) Reviewed and revised by the Authority as necessary to keep them
31 up to date, with due consideration of relevant international safety standards
32 and technical standards and of relevant experience; and

33 (2) Set forth principles, requirements, and associated criteria
34 commensurate with the radiation risks associated with the facilities and
35 activities, in accordance with a graded approach.

36 (e) The Authority shall establish processes for issuing and amending
37 regulations, standards, and guides that includes consultation with interested
38 parties.

1 (f) The Authority shall publish in a newspaper of national
2 circulation its regulations, standards, and guidelines once issued.

3 **SEC. 10. *Transparency and Protection of Information.*** – The Authority
4 shall promote transparency in the exercise of its functions and responsibilities,
5 while at all times protecting information:

6 (a) That is classified, sensitive, or proprietary; or

7 (b) The disclosure of which may prejudice nuclear security or nuclear
8 safeguards. The Authority shall communicate proactively with and initiate
9 dialogue with the public regarding all information pertaining to events
10 involving nuclear facilities deemed outside the operating envelope that could
11 have an impact on public health, safety, and the environment.

12 **SEC. 11. *Advisory Bodies and Consultants.*** –

13 (a) The Authority may obtain the advice of experts in the
14 performance of its functions and responsibilities, including the hiring of
15 consultants and technical support organizations and establishing advisory
16 bodies.

17 (b) The Authority shall ensure that advice received from outside
18 experts or bodies is provided in a manner that avoids any conflict of interest or
19 improper influence on its regulatory decision-making.

20 **ARTICLE 3**

21 **AUTHORIZATION, INSPECTION, AND ENFORCEMENT**

22 **SEC. 12. *Regulated Facilities and Activities.*** – It is prohibited to carry
23 out the following without an authorization issued by the Authority:

24 (a) The siting, construction, commissioning, operation, and
25 decommissioning of a nuclear or radiation facility;

26 (b) The acquisition, possession, manufacture, import, export,
27 distribution, sale, offer for sale, transfer, handling, use, transport, storage, or
28 disposal of nuclear and radioactive materials;

29 (c) The use and testing of radiation generators and the operation of
30 radiation facilities;

31 (d) All radioactive waste management activities; and

32 (e) Any other activity or practice through which people or the
33 environment may be subject to radiation risks as determined by the Authority
34 and which is not exempt or excluded by the Authority.

35 **SEC. 13. *Authorization Process.*** –

1 (a) The applicant shall be required to submit an adequate
2 demonstration of safety in support of an application for the authorization of a
3 regulated facility or an activity.

4 (b) The Authority shall make publicly available the regulations,
5 standards and guides, as appropriate, information on the authorization
6 process, including:

7 (1) Procedures and schedules for applications, including review and
8 assessment of applications and issuance of authorizations;

9 (2) Criteria to be considered in authorization decisions made by the
10 Authority including issuance, suspension, modification, renewal, revocation,
11 and relinquishment of authorizations;

12 (3) Conditions or qualifications that must be met by the applicant for
13 an authorization;

14 (4) Procedures and requirements for public participation in the
15 authorization process; and

16 (5) Procedures and requirements for the release of information
17 concerning the authorization process, including measures for the protection of
18 information identified in Section 10 of this Act.

19 **SEC. 14. *Authorizations for Nuclear Facilities.* –**

20 (a) The Authority shall issue regulations, standards, and guides as
21 appropriate for the siting, design, construction, commissioning, operation, and
22 decommissioning of nuclear facilities.

23 The minimum elevation for Emergency Diesel Generators (EDGs) of
24 nuclear power plants shall be eighteen (18) meters above sea level. In no case
25 shall EDGs and other emergency backup safety devices be located in the
26 basement of nuclear power plants.

27 (b) In developing regulations, standards and guides with respect to
28 authorizations for nuclear power plants, the Authority shall:

29 (1) Facilitate harmonization with IAEA Safety Standards and give
30 due consideration to compatibility with the relevant regulatory regime(s) of
31 the country-of-origin of a standard design or reference plant; and

32 (2) Require an applicant to identify a standard design or reference
33 plant in its application and require that such application (i) contains a safety
34 analysis report that makes maximum utilization of the safety case for the
35 standard design or the reference plant, (ii) identifies any design changes from
36 the standard design or the reference plant, and (iii) provides the regulatory
37 basis for approval in the country-of-origin of the standard design or the
38 reference plant.

1 (c) The Authority shall conduct an independent review and assessment
2 of an application with respect to an authorization for a nuclear power plant
3 and in undertaking such review and assessment:

4 (1) For those parts of the design that are the same as the identified
5 standard design or the reference plant design, the Authority shall make
6 maximum utilization of the safety assessment of an experienced foreign
7 nuclear regulatory body of the identified standard design or reference plant
8 design and apply a graded approach when reviewing deviations from the
9 standard design or reference plant design and site-specific and applicant-
10 specific matters; and

11 (2) For those parts of the design that are the same as the identified
12 standard design or the reference plant design, the Authority shall consider
13 accepting the safety assessment of an experienced foreign nuclear regulatory
14 body.

15 (d) The Authority and the applicant shall establish a proposed
16 authorization timeline which shall facilitate predictable project deployment.
17 Such timeline shall in no case exceed eighteen (18) months.

18 (e) The Authority shall establish a system for the authorization of
19 individuals to conduct activities or practices associated with the operation of
20 nuclear facilities, taking cognizance of international best practices.

21 (f) As a condition of an authorization to operate a nuclear power
22 plant, the amount of PhP 0.06/kWh of electricity generated from the use of
23 nuclear energy for commercial power generation shall be set aside by the
24 operator for the establishment of the Radioactive Waste Management Fund,
25 which shall be used for the final disposition of nuclear spent fuel by geologic
26 isolation using deep boreholes, to be held in trust by the Development Bank of
27 the Philippines (DBP).

28 (g) As a condition of an authorization to operate a nuclear power
29 plant, the amount of PhP 0.06/kWh of electricity generated from the use of
30 nuclear energy for commercial power generation shall likewise be set aside by
31 the operator for the establishment of a plant end of life Decommissioning
32 Fund, to be held in trust by the DBP.

33 (h) The Radioactive Waste Management Fund and the
34 Decommissioning Fund in items (f) and (g) herein shall be held under the name
35 that the Authority shall establish.

36 (i) The Authority shall not grant a license to nuclear plants other
37 than Light Water Reactors (LWR) and Heavy Water Reactors (HWR) until
38 such time that non-water cooled or moderated reactors shall have operated
39 incident-free in the country of origin for at least nineteen thousand seven

1 hundred ten (19,710) operating hours, unless the specific reactor type is
2 exempted by the President of the Philippines through an executive issuance.

3 **SEC. 15.** *Rejection, Suspension, Modification, Renewal, Revocation or*
4 *Relinquishment of Authorizations and Cessation of Authorized Activities.* –

5 (a) A decision by the Authority to reject an application for an
6 authorization or to suspend, modify, or revoke an authorization shall be
7 accompanied by a written explanation of the reasons provided to the applicant
8 or authorized party.

9 (b) Any authorization issued pursuant to this Act may be suspended,
10 modified, or revoked by the Authority:

11 (1) In the event of a violation of its terms and conditions;

12 (2) When the conditions under which it was issued are no longer met;
13 or

14 (3) In circumstances where the Authority determines that continued
15 activity under the authorization may pose an unacceptable risk to people or
16 the environment:

17 *Provided, That, in the cases of paragraphs (b)(1) and (2) herein, the authorized*
18 *party shall be afforded the opportunity to demonstrate compliance with the*
19 *terms and conditions of the relevant authorization.*

20 (c) Upon the suspension, revocation, or expiration of an
21 authorization which is not renewed, the authorized party shall be required to
22 take such measures as may be necessary to protect people and the
23 environment from the harmful effects of ionizing radiation, and ensure the
24 security of nuclear and other radioactive material and associated facilities.

25 (d) An authorized party may not transfer an authorization.

26 (e) An authorization shall automatically cease to be valid when any
27 time limit established by regulation or term or condition of the authorization
28 has expired.

29 (f) An authorized party ceasing an authorized activity or practice, or
30 relinquishing an authorization, shall inform the Authority prior to the
31 cessation of that activity or practice or relinquishment of an authorization and
32 shall be released from regulatory control only upon a determination by the
33 Authority that all relevant terms and conditions of an authorization have been
34 complied with and the cessation or relinquishment shall not jeopardize the
35 protection of people or the environment.

36 **SEC. 16.** *Prime Responsibility.* – The person responsible for an activity
37 or facility shall:

1 (a) Have the prime responsibility for the safe and secure operation of
2 that activity or facility;

3 (b) Ensure and demonstrate compliance with this Act, applicable
4 regulatory requirements and terms and conditions of an authorization as may
5 be applicable; and

6 (c) Provide the Authority with all assistance necessary in the
7 performance of its regulatory functions.

8 **SEC. 17. *Inspection.* –**

9 (a) The Authority shall establish an inspection program to monitor
10 compliance with the requirements of this Act, applicable regulations, and the
11 terms and conditions of authorizations issued by it.

12 (b) The Authority shall formally appoint inspectors possessing
13 required qualifications and training and shall issue them with appropriate
14 credentials.

15 (c) The Authority shall have the power to conduct inspections, obtain
16 information, question persons, and carry out any other examination as may be
17 necessary to verify compliance with the provisions of this Act, applicable
18 regulations and the terms and conditions of authorizations issued by it.

19 (d) Inspectors shall have access at any time to all parts of the
20 premises or facilities where activities or practices are carried out.

21 (e) Inspections shall include programmed inspections and reactive
22 inspections, both announced and unannounced.

23 (f) The Authority shall have the power to station inspectors at
24 premises or facilities where activities and practices are carried out as may be
25 determined by the Authority to be necessary.

26 (g) Inspection results shall be documented and recorded and be made
27 available to relevant officials, the authorized party and other entities as a
28 basis for corrective or enforcement action or for development of the regulatory
29 process.

30 **SEC. 18. *Enforcement.* –**

31 (a) The Authority shall establish and implement an enforcement
32 policy for responding to non-compliance by authorized parties with the
33 provisions of this Act, applicable regulations or the terms and conditions of an
34 authorization.

35 (b) Where an authorized party or other person or entity is found to
36 be non-compliant with any provision of this Act, applicable regulations or the
37 terms and conditions of an authorization, the Authority shall take enforcement

1 action commensurate with the seriousness of the non-compliance. Any
2 enforcement action shall be reviewed and approved by the DG.

3 (c) The authorized party or other person or entity subject to
4 enforcement action shall take the necessary measures to remedy the non-
5 compliance as soon as possible, as required by the Authority, and take the
6 necessary measures to prevent a recurrence.

7 (d) A report shall be issued by the Authority containing relevant
8 findings and identifying the evidentiary basis for the findings and enforcement
9 action. This report shall be made available to the authorized party. The
10 authorized party shall have the right to submit additional information or
11 appeal a decision by the Authority within time periods to be defined in
12 regulations or provided for administrative appeal or judicial review.

13 (e) Enforcement actions shall continue to be in force unless and
14 until:

- 15 (1) Withdrawn by the relevant inspector;
- 16 (2) Reversed or modified by action of the Authority; or
- 17 (3) Altered through an administrative appeal or judicial review.

18 **ARTICLE 4**

19 **RADIATION PROTECTION**

20 **SEC. 19. *Existing Regulations.*** – All existing regulations, rules and
21 orders relating to radiation protection shall remain in force until superseded
22 by the regulations, standards and guidelines issued by the Authority.

23 **SEC. 20. *Radiation Protection.*** – The Authority shall establish a system
24 of control over radioactive sources and devices in which such sources are
25 incorporated to ensure that they are safely managed and securely protected
26 during their useful lives and at the end of their useful lives, in accordance with
27 the recommendations and guidance of the International Commission on
28 Radiological Protection and implementation of the relevant requirements of
29 the IAEA.

30 **ARTICLE 5**

31 **EMERGENCY PREPAREDNESS AND RESPONSE**

32 **SEC. 21. *Emergency Plans.*** –

33 (a) No authorization to conduct a regulated activity or practice may
34 be granted unless and until an appropriate emergency preparedness and
35 response plan has been developed by the applicant and approved by the
36 Authority.

1 (b) The Authority shall establish, by regulations or terms and
2 conditions in an authorization, a requirement that on-site emergency
3 preparedness and response plans be prepared and approved for any nuclear
4 facility or activity, practice or source that could give rise to a need for
5 emergency intervention.

6 (c) In the preparation of emergency preparedness and response
7 plans, the following shall be taken into account:

8 (1) An assessment of the nature, likelihood, and potential magnitude
9 of resulting damage, including the population and territory at risk from an
10 accident, malicious act or incident;

11 (2) The results of any accident analyses and any lesson learned from
12 experience and/or incidents and accidents that have occurred in connection
13 with similar facilities or activities; and

14 (3) Coordination with off-site emergency preparedness and response
15 plans.

16 (d) Preparation of emergency preparedness and response plans for
17 activities, facilities, practices, or sources that could involve significant nuclear
18 or radiological damage shall be coordinated with all relevant emergency
19 intervention or response organizations.

20 (e) Emergency plans shall be periodically reviewed, updated, and
21 tested.

22 (f) In the event of a nuclear or radiological emergency, the
23 authorized party shall implement the emergency preparedness and response
24 plan as approved by the Authority.

25 **SEC. 22. *National Plan for Nuclear or Radiological Emergencies.* –**

26 (a) A national emergency plan for responding to potential nuclear or
27 radiological emergencies shall be developed and maintained by the National
28 Disaster Risk Reduction and Management Council of the Department of
29 National Defense and approved by the Secretary of the Department.

30 (b) The national emergency plan for responding to nuclear or
31 radiological emergencies shall be developed and maintained based on
32 recommendations of the Authority.

33 (c) The national emergency plan for responding to nuclear or
34 radiological emergencies shall include an allocation of responsibilities and
35 actions among relevant governmental and nongovernmental bodies, including
36 arrangements for communications and public information.

37 **SEC. 23. *Transboundary Emergencies.* –**

1 (a) In the event of a nuclear or radiological emergency that poses a
2 risk that radioactive contamination could spread beyond the boundaries of the
3 Philippines, the Government shall immediately notify the IAEA and the
4 relevant authorities of any State which may be physically affected by a release
5 that could be of radiological significance for that State.

6 (b) The Authority shall serve as the point of contact for providing any
7 information or assistance regarding nuclear or radiological emergencies under
8 the terms of relevant international instruments to which the Philippines is a
9 party.

10 ARTICLE 6

11 NUCLEAR SECURITY

12 SEC. 24. *Regulation of Physical Protection.* –

13 (a) The Authority shall establish requirements for the physical
14 protection of nuclear material in use, storage, and transport and of nuclear
15 facilities based on a graded approach to:

16 (1) Protect against theft and other unlawful taking of nuclear
17 material and other radioactive material;

18 (2) Implement rapid and comprehensive measures to locate and
19 recover missing or stolen nuclear material or other radioactive material;

20 (3) Protect nuclear material and nuclear facilities against sabotage;
21 and

22 (4) Mitigate or minimize the radiological consequences of sabotage.

23 (b) The requirements established by the Authority shall include:

24 (1) Authorization requirements and procedures that include
25 conditions for physical protection;

26 (2) Inspection and monitoring measures to verify compliance with
27 applicable physical protection requirements; and

28 (3) Enforcement measures in case of non-compliance with this Act,
29 applicable regulations or terms and conditions of authorizations.

30 (c) During international transport of nuclear material, including
31 within the territory of the Philippines, and on board a ship or aircraft under
32 its jurisdiction and engaged in transport to or from the Philippines, physical
33 protection measures shall be applied to different categories of nuclear material
34 in accordance with the relevant international instruments to which the
35 Philippines is a party.

36 (d) The export, import, or transit of nuclear material from, to or
37 within the Philippines shall not be authorized unless the Philippines has

1 received assurances that such material shall be protected during international
2 nuclear transport in accordance with the relevant international instruments to
3 which the Philippines is a party.

4 (e) The Authority shall coordinate with other relevant Government
5 security authorities in connection with the requirements for the physical
6 protection of any nuclear material.

7 **SEC. 25. *Physical Protection.*** – Responsibilities of the Authorized
8 Person:

9 (a) The authorized party, or holder of the relevant authorizing
10 documents in the case of international transportation, shall have the prime
11 responsibility for the implementation of physical protection of nuclear material
12 and nuclear facilities.

13 (b) Where there has been a theft, robbery, or other unlawful taking,
14 credible threat of unlawful taking, or loss of nuclear or other radioactive
15 material, the authorized party shall:

16 (1) Notify the Authority without delay of the incident and
17 circumstances thereof;

18 (2) Provide a written report, including particulars, to the Authority
19 as soon as practicable after providing notice; and

20 (3) Provide the Authority with any additional information requested.

21 **SEC. 26. *International Cooperation and Assistance.*** –

22 (a) The Authority shall serve as the point of contact for matters
23 related to physical protection under the terms of relevant international
24 instruments to which the Philippines is a party, including with respect to
25 cooperation and assistance arrangements with other States and international
26 organizations.

27 (b) In the event of theft, robbery, or other unlawful taking, credible
28 threat of unlawful taking, or loss of nuclear or other radioactive material, the
29 Authority shall take appropriate steps as soon as possible to inform other
30 States or international organizations that may be affected of the
31 circumstances of the incident in accordance with the relevant international
32 instruments to which the Philippines is a party.

33 (c) The Authority shall be the central authority in the Philippines
34 responsible for coordinating the recovery and response in the event of any
35 theft, robbery or other unlawful taking, or loss of nuclear material or
36 radioactive material.

37 **SEC. 27. *Protection of Confidential Information.*** –

1 (a) No person shall disclose confidential information relating to the
2 physical protection of nuclear material or nuclear facilities.

3 (b) A person who discloses confidential information relating to the
4 physical protection of nuclear material or nuclear facilities shall be liable for
5 violation under Section 45 of this Act.

6 **SEC. 28. *Handling of Radioactive/Nuclear Material and Devices.* –**

7 (a) Whoever, without lawful authority, receives, possesses, transfers,
8 alters, or disposes of radioactive/nuclear material or possesses a device:

9 (1) with the intent to cause:

10 (i) death or serious bodily injury; or

11 (ii) substantial damage to property or to the environment; or

12 (2) which causes or is likely to cause death or serious injury to any
13 person or substantial damage to property or to the environment shall be
14 punished with the penalties provided under Section 45 hereof, taking into
15 account the grave nature of such offenses.

16 (b) Whoever commits:

17 (1) a theft or robbery of radioactive/nuclear material;

18 (2) an embezzlement or fraudulent obtainment of radioactive/nuclear
19 material; or

20 (3) an act which constitutes the carrying, sending, or moving of
21 radioactive material into or out of a State without lawful authority shall be
22 punished with penalties provided under Section 45 hereof, taking into account
23 the grave nature of such offenses.

24
25 (c) Whoever threatens to commit an offense set forth in paragraph
26 (b)(1) of this section in order to compel a person, international organization or
27 State to do or to refrain from doing any act shall be punished with penalties
28 provided under Section 45 hereof, taking into account the grave nature of
29 those offenses.

30 (d) Whoever demands radioactive/nuclear material or a device by
31 threat, or by use of force, or by any other form of intimidation, under
32 circumstances which indicate the credibility of the threat shall be punished
33 with penalties provided under Section 45 hereof taking into account the grave
34 nature of those offenses.

35 **SEC. 29. *Use of Radioactive/Nuclear Material.* –**

36 (a) Whoever, without lawful authority, uses or disperses in any way
37 radioactive/nuclear material or uses or makes a device:

- 1 (1) with the intent to cause:
- 2 (i) death or serious bodily injury; or
- 3 (ii) substantial damage to property or to the environment; or
- 4 (2) to compel a person, an international organization, or a State to do
- 5 or refrain from doing an act; or
- 6 (3) which causes or is likely to cause death or serious injury to any
- 7 person or substantial damage to property or to the environment shall be
- 8 punished with penalties provided under Section 45 hereof, taking into account
- 9 the grave nature of those offenses.
- 10 (b) Whoever threatens to commit the offense set forth in paragraph
- 11 (a) of this section shall be punished with penalties provided under Section 45
- 12 hereof, taking into account the grave nature of those offenses.

13 **SEC. 30. *Offenses Relating to Nuclear Facilities.* –**

14 (a) Whoever uses or damages a nuclear facility, interferes with its

15 operation, or commits any other act directed against a nuclear facility in a

16 manner which releases or risks the release of radioactive material:

- 17 (1) with the intent to cause:
- 18 (i) death or serious bodily injury; or
- 19 (ii) substantial damage to property or to the environment; or
- 20 (2) with knowledge that the act is likely to cause death or serious
- 21 injury to any person or substantial damage to property or to the environment
- 22 by exposure to radiation or release of radioactive substances, unless the act is
- 23 undertaken in conformity with the national law of the State Party in the
- 24 territory of which the nuclear facility is situated; or
- 25 (3) to compel a person, an international organization or a State to do
- 26 or refrain from doing an act, shall be punished with penalties provided under
- 27 Section 45 hereof, taking into account the grave nature of those offenses.

28 (b) Whoever threatens to commit an offense set forth in paragraph 1

29 of this Article shall be punished with penalties provided under Section 45

30 hereof, taking into account the grave nature of those offenses.

31 (c) Whoever demands a nuclear facility by threat or by use of force or

32 by any other form of intimidation, under circumstances which indicate the

33 credibility of the threat shall be punished with penalties provided under

34 Section 45 hereof taking into account the grave nature of those offenses.

35 **SEC. 31. *Jurisdiction.* –** The Philippines shall have jurisdiction over the

36 offenses set forth in Article 6 of this Act, as follows:

1 (a) When the offense is committed within the territory of the
2 Philippines or on board a ship or aircraft registered in the Philippines;

3 (b) When the alleged offender is a national or permanent resident of
4 the Philippines;

5 (c) When the alleged offender is present in the territory of the
6 Philippines and is not extradited to any other State asserting jurisdiction; and

7 (d) When an act is done outside the Philippines if the act is done in
8 the course of international transport of nuclear material in a case where it is
9 the State where the shipment originates or the State of ultimate destination.

10 **SEC. 32. *Extradition.*** – The offenses set forth in this Article shall be
11 considered as extraditable offenses pursuant to any extradition treaty between
12 the Republic of the Philippines and any State that is a party to the relevant
13 international instrument.

14 **ARTICLE 7**

15 **SAFEGUARDS**

16 **SEC. 33. *Application of Safeguards.*** –

17 (a) To ensure compliance with the relevant commitments of the
18 Philippines pursuant to the Treaty on the Non-Proliferation of Nuclear
19 Weapons, the IAEA shall have the right to apply safeguards as provided for in
20 the Safeguards Agreements.

21 (b) The Authority shall:

22 (1) Ensure the implementation of the obligations of the Philippines
23 arising from the Treaty on the Non-Proliferation of Nuclear Weapons and the
24 Safeguards Agreements;

25 (2) Collect and provide to the IAEA the information required to fully
26 implement the Safeguards Agreements;

27 (3) Facilitate access by IAEA inspectors within the territory of the
28 Philippines; and

29 (4) Coordinate with other relevant Government authorities in the
30 provision of information to the IAEA in connection with the Safeguards
31 Agreement.

32 (c) Designated inspectors of the IAEA shall be permitted to enter
33 and remain in the territory of the Philippines for the purpose of carrying out
34 their safeguards functions in accordance with the Safeguards Agreements
35 without the need to obtain visas.

36 **SEC. 34. *Safeguards Inspections.*** –

1 (a) Duly authorized representatives of the Authority and designated
2 inspectors of the IAEA shall have access to any location or nuclear facility as
3 provided for under the Safeguards Agreements, with a view to conducting the
4 verification activities authorized by the Safeguards Agreements.

5 (b) All agencies of the Government and all authorized parties shall
6 allow the Authority and the IAEA to carry out any measures the Authority or
7 the IAEA considers necessary or appropriate for achieving compliance with the
8 undertakings of the Philippines in the Safeguards Agreements.

9 (c) All agencies of the Government and all authorized parties shall
10 cooperate fully with the Authority and the IAEA in the application of
11 safeguards measures, including by:

12 (1) Promptly providing all necessary information under the
13 Safeguards Agreements;

14 (2) Providing access to locations and nuclear facilities as required by
15 the Safeguards Agreements; and

16 (3) Providing support to the Authority and IAEA inspectors in the
17 performance of their tasks.

18 **SEC. 35. *System of Accounting for and Control of Nuclear Material.*** –
19 The Authority shall establish and maintain a system for the accounting for
20 and control of nuclear material in the Philippines, which shall include:

21 (a) A system for the measurement of nuclear material;

22 (b) A system for the evaluation of measurement accuracy;

23 (c) Procedures for reviewing measurement differences;

24 (d) Procedures for carrying out physical inventories;

25 (e) Procedures for reporting the loss or misappropriation of,
26 interference with, or an accident involving, nuclear material;

27 (f) A system for evaluation of unmeasured inventories;

28 (g) A system of records and reports for tracking nuclear material
29 inventories and flows;

30 (h) Procedures for ensuring that accounting methods and
31 arrangements are being operated correctly; and

32 (i) Procedures for reporting to the IAEA.

33 **SEC. 36. *Responsibilities of Authorized Parties.*** – Authorized parties
34 possessing, using, handling, or processing nuclear material subject to the
35 Safeguards Agreements shall:

36 (a) Maintain records as prescribed by the Authority;

1 (b) Submit the prescribed reports to the Authority in the form, and
2 at the times, specified by the Authority;

3 (c) Perform the measurements of nuclear material and maintain
4 required measurement control programs, as specified by the Authority;

5 (d) Provide the Authority with information regarding the design of
6 any nuclear facility, including any design changes, as specified by the
7 Authority;

8 (e) Conduct physical inventories of nuclear material, as specified by
9 the Authority;

10 (f) Give notice to the Authority on the import or export of nuclear
11 material, as specified by the Authority;

12 (g) Maintain physical protection and other security measures with
13 respect to nuclear material, as specified by the Authority;

14 (h) Immediately inform the Authority of any interference with or loss
15 or misappropriation of nuclear material or of any accident which has led to, or
16 could lead to, violation of the integrity of nuclear material;

17 (i) Provide reports on planned future activities, as specified by the
18 Authority; and

19 (j) Allow authorized representatives of the Authority and designated
20 officials of the IAEA to carry out, without hindrance, inspections at any
21 nuclear facility or other location as provided for under this Act and the
22 Safeguards Agreements.

23 **SEC. 37. *Information Requirements for Research and Development***
24 ***Activities Related to the Nuclear Fuel Cycle. –***

25 (a) Any person intending to carry out research and development
26 activities related to the nuclear fuel cycle, as defined in the Safeguards
27 Agreements, shall provide to the Authority information on such activities prior
28 to their commencement.

29 (b) An authorized party performing activities subject to the
30 Safeguards Agreements shall submit to the Authority the information and
31 data necessary for compliance by the Philippines with the undertakings by the
32 Philippines arising from the Safeguards Agreements.

33 **ARTICLE 8**

34 **TRANSPORT, IMPORT, AND EXPORT CONTROLS**

35 **SEC. 38. *Regulation of the Transport of Radioactive Material. –***

36 (a) The Authority shall establish requirements for the transport of
37 radioactive material to, from, and within the jurisdiction of the Philippines.

(b) The requirements adopted pursuant to this section shall:

(1) Include a categorization of radioactive material that takes into account the potential hazard posed by types, quantities, and activity levels of such material;

(2) Take into account the technical requirements of the latest edition of the Regulations for the Safe Transport of Radioactive Material issued by the IAEA; and

(3) Accept, and may not require the relicensing of, transport packages or containers licensed for transport by an experienced foreign nuclear regulatory body in a state that is in good standing under international nuclear instrument.

SEC. 39. *Export and Import of Nuclear or Radioactive Material.* –

(a) The Authority shall establish regulatory requirements and relevant guides for the export and import of nuclear and radioactive materials which require licenses to ensure, among others, the following:

(1) An authorization from the Authority prior to export or import with the assurance of applying safeguards and physical protection measures to protect public health, safety, and security;

(2) That the exporter has an authorization from the competent authority of the country of origin to export such materials to the Philippines in accordance with laws and regulations of that country; and

(3) That the importing country has the appropriate technical and administrative capability, resources, and regulatory infrastructure needed for the safe and secure management of the requested nuclear and other radioactive material, particularly disused sources.

(b) The review and approval of export authorizations of nuclear materials shall be coordinated with the Department of Trade and Industry – Strategic Trade Management Office (DTI-STMO) and, the Bureau of Customs and border authorities of the Philippines in accordance with the Customs Modernization and Tariff Act (CMTA).

(c) A coordination mechanism between the Authority and DTI-STMO on export and import controls shall be established: *Provided*, That the requirements for the import, export, and transit of controlled items to, from and within the territory of the Philippines, shall include:

(1) Provision for periodic revision lists of controlled items;

(2) End user controls;

(3) Requirements for notification prior to shipment of exports where such notification has been determined to be necessary; and

1 (4) Requirements for record keeping;

2 *Provided, further,* That the criteria for the granting of an authorization or
3 license to export nuclear related items or nuclear related dual-use items
4 identified by the Authority as being subject to control shall include that:

5 (1) The receiving State has in force an agreement with the IAEA
6 requiring the application of safeguards and is in good standing under such
7 agreement;

8 (2) The receiving State has made a binding commitment to use the
9 transferred items for peaceful purposes only and that IAEA safeguards will be
10 applied to the transferred items;

11 (3) The retransfer of exported controlled items to a third State or any
12 reprocessing or enrichment of supplied nuclear material or involving the use of
13 exported controlled items, is subject to a right of prior approval by the
14 Philippines;

15 (4) The levels of physical protection that will apply to the exported
16 material will be consistent with those set forth in the Convention on the
17 Physical Protection of Nuclear Material as amended by the Amendment to the
18 Convention on the Physical Protection of Nuclear Material;

19 (5) The applicant has provided information on the end use and end
20 user of the controlled items that confirms the legitimate peaceful and secure
21 use of such items;

22 (6) For spent nuclear fuel or radioactive waste:

23 (i) The receiving State has received prior notification of, and has
24 consented to, the transfer; and

25 (ii) Export will not be authorized to a destination south of latitude
26 sixty (60) degrees south (Antarctica) for storage or disposal;

27 (7) If applicable, all relevant States have given consent to the transit
28 of the items through their territory; and

29 (8) The consignee, consignor, consignment, and carrier of the items
30 have been appropriately licensed:

31 *Provided, finally,* That the criteria for the granting of an authorization to
32 import controlled items by the Authority shall include that:

33 (1) The importation of the items is not otherwise prohibited by law of
34 the Republic of the Philippines;

35 (2) The exporting State shall require the application of appropriate
36 levels of physical protection to the international transport;

1 (3) If applicable, all relevant States have given consent to the
2 transfer of the items through their territory;

3 (4) The consignee, consignor, consignment, and carrier of the items
4 have been appropriately licensed; and

5 (5) The end user of the imported nuclear items has the demonstrated
6 technical and administrative capability and resources to use the imported
7 nuclear items in a safe and secure manner.

8 ARTICLE 9

9 RADIOACTIVE WASTE AND SPENT FUEL

10 SEC. 40. *Scope for Radioactive Waste.* –

11 (a) This Act shall apply to the management of all radioactive waste
12 resulting from civilian applications in the Philippines: *Provided*, That it shall
13 not apply to waste that contains only naturally occurring radioactive material
14 and that does not originate from the nuclear fuel cycle, unless such waste is
15 declared as radioactive waste, for purposes of this Act, by the Authority.

16 (b) This Act shall also apply to the management of spent fuel
17 resulting from the operation of civilian nuclear reactors in the Philippines.

18 SEC. 41. *National Policy and Strategy.* –

19 (a) A national policy and strategy for radioactive waste and spent
20 fuel management shall be developed and approved at the national level by a
21 presidential issuance, until and unless a law has been promulgated to this
22 effect.

23 (b) The Department of Environment and Natural Resources shall, in
24 coordination with the PNRI, the Authority when constituted, and other
25 relevant agencies identify a minimum area of two hundred (200) hectares as
26 site for the management of low and intermediate level radioactive waste which
27 shall be called – The National Low and Intermediate Level Waste
28 Management Site.

29 (c) The PNRI shall establish an office tasked to manage the low and
30 intermediate level radioactive waste to be called the “Low and Intermediate
31 Level Radioactive Waste Management Office/Center”.

32 (d) The Low and Intermediate Radioactive Waste Management
33 Office/Center shall have an initial *plantilla* of not less than fourteen (14).

34 (e) Spent Nuclear Fuel (SNF) shall be stored in dry cask after the
35 fuel has been cooled in the Spent Fuel Pool (SFP) for five (5) years from the
36 time it is unloaded from the reactor for replacement. The period to transfer to
37 dry cask shall start on the first day of the sixth year and shall not exceed the

1 last day of the seventh year from the time the fuel assembly has been
2 unloaded from the reactor for replacement.

3 (f) The Authority may certify remote dry cask interim storage
4 concrete pads or roofed interim storage facilities located anywhere in the
5 Philippines.

6 **SEC. 42. *General Principles Applying to Radioactive Waste and Spent***
7 ***Fuel Management.*** – At all stages in the management of radioactive waste and
8 spent fuel in the Philippines, the following principles shall be applied by all
9 persons and entities, including governmental bodies:

10 (a) People and the environment are adequately protected against
11 radiological and other hazards;

12 (b) The generation of radioactive waste is kept to the minimum
13 practicable;

14 (c) The interdependence among the different steps of radioactive
15 waste and spent fuel management is taken into account;

16 (d) Protective measures for radioactive waste and spent fuel
17 management in the Philippines are implemented in a manner that reflects
18 internationally recognized criteria, standards and guidance adopted by the
19 IAEA;

20 (e) Biological, chemical, and other hazards that may be associated
21 with radioactive waste and spent fuel management are adequately addressed;

22 (f) Criticality and removal of residual heat generated during
23 radioactive waste and spent fuel management are adequately addressed;

24 (g) Actions imposing reasonably predictable impacts on future
25 generations greater than those permitted for the current generation are
26 avoided;

27 (h) Undue burdens on current and future generations are avoided;

28 (i) Spent fuel may be kept in interim storage pending future
29 commercial use, such as in fuel for Generation IV nuclear reactors as
30 determined by the Authority;

31 (j) The operator of a nuclear facility shall be solely responsible for
32 the funding of radioactive waste and spent fuel management and disposal; and

33 (k) The application of other existing environmental laws.

34 **SEC. 43. *Disposal Plan.*** – The authorized party of a nuclear waste
35 disposal facility shall prepare a plan for the closure of that facility that
36 includes both active and passive institutional controls. The Authority shall
37 approve this plan prior to authorizing the operation of that facility.

SEC. 44. *Import of Radioactive Waste.* – Radioactive waste generated outside the territory of the Philippines shall not be imported into the Philippines unless a determination has been made by Congress or the President of the Philippines that the import would be in the national interest and an authorization has been issued by the Authority.

ARTICLE 10

OFFENSES, PENALTIES, AND APPEALS

SEC. 45. Criminal Offenses and Penalties. –

(a) Any person who shall willfully violate, attempt to violate, or conspire to violate any provision of Section 12 of this Act, shall upon conviction thereof, suffer the penalty of imprisonment of not more than five (5) years or a fine of not less than One million pesos (P1,000,000.00) or both at the discretion of the Court.

(b) The provision of the Revised Penal Code (RPC), as amended, shall apply to any person who shall willfully violate, attempt to violate, or conspire to violate the provisions of Sections 28, 29, and 30 of this Act with penalty one (1) degree higher than the ones prescribed by the RPC, as amended. In case the degree of penalties does not apply, or when the offense or offenses constitute a violation of a special penal law, an additional penalty of one (1), two (2), and three (3) years, for crimes equivalent to light, less grave, and grave offenses, respectively, shall be imposed in addition of the penalty provided by the applicable special penal law.

(c) Any person who shall willfully violate, attempt to violate, or conspire to violate any other provisions of this Act, regulation, order, authorization or license issued under the authority of this Act, shall, upon conviction thereof, suffer the penalty of imprisonment of not more than two (2) years or a fine of not less than Two hundred fifty thousand pesos (P250,000.00) or both at the discretion of the Court. The Authority shall determine the acts punishable hereunder.

The Authority may, *motu proprio* or upon the initiative of any interested person, file a verified complaint for the commission of any of the acts complained hereof.

SEC. 46. *Administrative Offense and Appeals of Regulatory Decisions.* –

(a) The Authority shall establish a range of penalties, both administrative and civil, to be imposed in cases of non-compliance with the applicable regulatory requirements or the terms and conditions of an authorization.

(b) The Court of Appeals shall have the power of judicial review over any final order or decision of the Authority, consistent with the provisions of the Rules of Court on Appeals.

ARTICLE 11

FINAL PROVISIONS

SEC. 47. *Liability for Nuclear Damage.* – The sections of Part VII, Liability for Nuclear Damage, of the Atomic Energy Regulatory and Liability Act of 1968 shall continue to apply in accordance with international nuclear liability instruments to which the Philippines is a party.

SEC. 48. *Human Resources.* – All *plantilla* positions of the Nuclear Regulatory Division of the PNRI and those with responsibilities solely on the use of ionizing radiation device and operation of its facilities in the Radiation Regulation Division – Center for Device Regulation, Radiation, Health and Research (CDRRHR) of the Department of Health – Food and Drug Administration, are hereby transferred to the Authority including all powers, functions and duties, records, files, equipment, assets and funds.

There shall be no demotion in ranks and positions, and no diminutions in salaries, benefits, allowances, and emoluments of all PNRI and CDRRHR personnel to be transferred to the Authority.

The Authority shall draw up its organizational structure with the necessary qualification requirements and standards in accordance with the Civil Service Law, rules, and regulations for evaluation and approval of the DBM upon submission to the DBM.

Qualified employees of the Authority and its attached units shall be covered by Republic Act No. 8439, otherwise known as the “*Magna Carta* for Scientists, Engineers, Researchers and other Science and Technology Personnel in the Government”.

SEC. 49. *Appropriations.* – The amount necessary for the initial implementation of this Act shall be charged against the current year’s appropriations of the departments and agencies concerned. Thereafter, such amount shall be included in the annual General Appropriations Act.

SEC. 50. *Implementing Regulations.* – The Authority shall issue the rules and regulations necessary to implement this Act within one hundred and eighty (180) days upon the effectivity of this Act.

SEC. 51. *Period of Commencement.* – Notwithstanding Section 50 of this Act, the period therein shall commence only after the PhilATOM Council shall have been duly constituted.

SEC. 52. *Joint Congressional Oversight Committee (JCOC).* – A Congressional Oversight Committee (COC) is hereby created composed of the

1 Chairpersons of the Special Committee on Nuclear Energy and the Committee
2 on Appropriations of the House of Representatives and two (2) Members, to be
3 appointed by the Speaker, and the Chairpersons of the Committees on Nuclear
4 Energy and Finance of the Senate and two (2) Members, to be appointed by
5 the President of the Senate, to oversee the implementation of this Act and to
6 review the accomplishments and the utilization of income of the Authority.
7 The secretariat of the COC shall be drawn from the existing personnel of the
8 committees comprising the COC.

9 **SEC. 53. *Separability Clause.*** – If any provision of this Act is declared
10 unconstitutional or invalid, the other provisions shall not be affected and shall
11 remain in full force and effect.

12 **SEC. 54. *Repealing Clause.*** – The pertinent provisions of Republic Act
13 No. 2067, otherwise known as the “Science Act of 1958”, as amended, Republic
14 Act No. 5207, otherwise known as the “Atomic Energy Regulatory and Liability
15 Act of 1968”, as amended, Republic Act No. 9711 otherwise known as the
16 “Food and Drug Administration Act of 2009”, Executive Order No. 128 Series of
17 1987 on Reorganizing the National Science and Technology Authority are
18 hereby repealed.

19 All other laws, executive orders, administrative orders, proclamations,
20 rules and regulations and other issuances or parts thereof which are
21 inconsistent with any provisions of this Act are hereby repealed or modified
22 accordingly.

23 **SEC. 55. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
24 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,