

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 JUN 30 P12:04

SENATE

S. No. 19

RECEIVED BY: 

Introduced by Senator Juan M. Flavier

EXPLANATORY NOTE

After the Clean Air Act's enactment into law, the greater challenge now is its efficient and effective implementation. Having all the powers and functions the Department of Environment and Natural Resources (DENR) is currently granted to implement, there is an even greater need to review its existing powers and functions with the end in view of effectively implementing critical legislation such as the Clean Air Act.

Based on the experience of other countries, such as the United States, Australia, and New Zealand, among others, resource utilization and developmental functions are separate from environmental protection and regulation functions. These two areas of concern are being implemented by separate government agencies.

This bill, therefore, proposes the separation of the environmental protection and regulatory functions of the DENR by creating a separate agency called the National Environmental Protection Agency (NEPA), which will take charge of these other functions. By directing the new agency towards these functions, the DENR will be able to concentrate on resource utilization and development while this new body will focus on environmental protection and regulation.


Specifically, the powers and functions of the NEPA, which will be an independent, cabinet-level watchdog, are as follows:

1. To formulate an integrated policy approach to environmental conservation and protection which will be implemented through comprehensive and continuous conservation and environmental protection strategies and action plans;
2. To enforce environmental quality standards for water, air, land and noise, and the prescription of rules and regulations for pollution control and environmental conservation;
3. To undertake research and information campaigns towards the attainment of environmental protection and sustainable development goals;
4. To deputize appropriate government agencies or instrumentalities and establish field offices in various administrative and administrative regions of the country for the purpose of enforcing the provisions of this Act;
5. To manage the National Environmental Protection Fund for financing adequate, suitable and appropriate measures to protect and improve environmental quality;

6. To issue *subpoena duces tecum*, *subpoena ad testificandum*, cease and desist orders, orders to vacate or demolish any structure, and temporary orders of confiscation or restraint of any movable article or property; and
7. To promote cooperation and encourage greater participation of the private sector and non-government organizations in the protection of the environment.

This measure does not only build a powerful structure to deal with problems of the environment but appropriately strengthens the Pollution Adjudication Board and establishes a complementary network of cooperation and joint undertaking between the government and the citizenry, especially at the local level.

In this light of the foregoing, approval of this bill is earnestly requested.


JUAN M. FLAVIER
Senator

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**AN ACT
CREATING THE PHILIPPINE ENVIRONMENTAL PROTECTION AUTHORITY,
DEFINING ITS POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES**

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

CHAPTER I

GENERAL PROVISIONS

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3 **SEC. 1. Title.** - This Act shall be known as the "Philippine Environmental
4 Protection Authority Act of 2004."

5 **SEC. 2. Declaration of Policy.** - Article II, Sections 15 and 16 of the
6 Philippine Constitution provide that the State as matter of policy shall: (1) protect
7 and promote the right to health and instill health consciousness among them; and
8 (2) protect and advance the right of the people to a balanced and healthful
9 ecology in accord with the rhythm and harmony of nature.

10 The State shall therefore ensure that social and economic development
11 activities of the public and private sectors are undertaken with due regard to the
12 people's health, nature's carrying capacity, and the future generations' right over
13 sustainable use of current resources and the environment's long-term stability
14 and integrity consistent with the growth, development and expansion of
15 employment opportunities.

16 **SEC. 3. Creation of the Philippine Environmental Protection**
17 **Authority.** - In order to carryout the declared policies under Section 2 hereof and
18 to efficiently and effectively address the problems of natural resource
19 degradation and environmental pollution, there is hereby created a Philippine
20 Environmental Protection Authority, hereinafter referred to as the Authority, which
21 agency shall be directly under the Office of the President.

22 **SEC. 4. Mandate.** - The Authority shall be the lead government agency
23 primarily responsible for the protection and conservation of the country's
24 environment and natural resources through the regulation of environmental
25 impact caused by pervasive human activities and the prevention, control,
26 mitigation and abatement of environmental pollution.

1 **SEC. 5. Powers and Functions.** - The Authority shall have the following
2 powers and functions; *Provided*, That certain responsibilities may be devolved to
3 local government units in consonance with the Local Government Code:

- 4 (a) Formulate and implement an integrated approach towards the
5 protection of the country's environment and resources;
- 6 (b) Evolve an integrated, multi-sectoral and multi-disciplinary National
7 Environmental Protection Strategy which shall focus on critical life-
8 support systems;
- 9 (c) Develop and implement comprehensive medium and long-term action
10 plans for environmental protection, pollution prevention and control that
11 shall form part of the National Economic and Development Authority's
12 (NEDA) national development plan;
- 13 (d) Formulate and enforce environmental quality standards for water, air,
14 land, noise, radiation and other standards which may fall within its
15 jurisdiction in subsequent legislations;
- 16 (e) Promulgate and prescribe policies, rules and regulations regarding the
17 control of water, air and land pollution and the proper disposal of solid
18 wastes and toxic and hazardous substances;
- 19 (f) Develop and undertake an integrated research program pertaining to
20 environmental protection, pollution prevention and control;
- 21 (g) Monitor and evaluate the implementation of all laws relating to the
22 regulation and control of activities that have an impact on the
23 maintenance of a wholesome natural environment and undertake
24 and/or recommend measures relative thereto;
- 25 (h) Design, establish and institutionalize, among others:
- 26 (1) An incentives system based on waste minimization, the re-
27 use and recycling of materials and the conservation of
28 indigenous resources;
- 29 (2) A system of fines, fees and penalties based on various
30 strategies such as, but not limited to, the "polluter pays"
31 principle, end-of-pipe treatment, and the mitigation,
32 abatement, neutralization, clean-up, remediation and
33 rehabilitation of pollution-affected areas and populations;
- 34 (3) An integrated environmental protection permit and licensing
35 system covering the regulatory areas of pollution control and
36 environmental impact assessment; and
- 37 (4) A cost-effective environmental information system
38 responsive to the needs of the Authority.

- 1 (i) Prepare, update, monitor and evaluate regional environmental profiles
2 and qualities of water, air, land and ecosystems media;
- 3 (j) Set water, air, land, radiation and ecosystem standards for emissions,
4 ambient air and water quality, end-of-pipe mitigation, and
5 rehabilitation/remediation/restoration;
- 6 (k) Regulate all Environmental Management Units (EMUs) required in all
7 air and water quality management areas, local government units,
8 government agencies and instrumentalities including but not limited to
9 those under the Metro Manila Development Authority (MMDA),
10 Philippine Economic Zone Authority (PEZA), Subic Bay Metropolitan
11 Authority (SBMA), Regional Industrial Centers (RICs), National Power
12 Corporation (NAPOCOR) and/or its successor entities, Philippine
13 National Oil Company (PNOC), and other Government Owned and
14 Controlled Corporations (GOCCs) and the private sector;
- 15 (l) Extend training and technical assistance to EMUs;
- 16 (m) Take over the functions of local EMUs, on an interim or temporary
17 basis where such EMUs are incapable of effectively exercising its
18 functions and/or in cases when public interest so demands;
- 19 (n) Coordinate, monitor and evaluate the implementation of domestic
20 environmental laws and international environmental treaties,
21 agreements and conventions;
- 22 (o) Issue *subpoena duces tecum*, *subpoena ad testificandum* and cease
23 and desist orders;
- 24 (p) Declare a state of emergency in case of actual or imminent
25 environmental disasters;
- 26 (q) Expropriate property after just compensation for public good;
- 27 (r) Command and call the assistance of appropriate government agencies
28 or instrumentalities for the purpose of enforcing the provisions of this
29 Act and its implementing rules and regulations as well as the orders
30 and decisions of the Authority;
- 31 (s) Submit an annual and 5-year environmental quality status report to the
32 President and the Congress;
- 33 (t) Conduct information, education, communication and training relating to
34 environmental protection and pollution prevention and control;
- 35 (u) Promote cooperation and encourage greater people participation and
36 private initiative in environmental protection and pollution prevention
37 and control;

- 1 (v) Organize the most appropriate implementing mechanism relative to the
2 performance of its mandated powers and functions;
- 3 (w) Adopt, prescribe and promulgate rules and regulations governing the
4 procedures of the Authority with respect to hearings, the filing of
5 reports, the issuance and/or review of all permits and other rules and
6 regulations for the purpose of the implementation and enforcement of
7 this Act.
- 8 (x) Establish field offices in the country's administrative and/or
9 autonomous regions to coordinate with the local government units in
10 the implementation of the provisions of this Act; and
- 11 (y) Exercise other powers and functions including corporate powers,
12 oversight powers over agencies and instrumentalities which activities
13 have a direct and residual impacts on the environment, natural and
14 human resources such as but not limited to radiation and noise
15 regulations, occupational health and safety standards, infrastructures
16 and building standards; and perform such acts as may be deemed
17 necessary and proper or which may be declared by the Authority to be
18 necessary, useful, incidental or auxiliary to accomplish its mandate and
19 objectives.

20 **CHAPTER II**
21 **AUTHORITY PROPER**

22 **SEC. 6. Office of the Director-General** - The Office of the Director-
23 General shall provide the overall supervision to the Authority. It shall be
24 composed of the Director-General and his immediate staff; the Deputy Director-
25 General; the Office of Assistant Director-General for Public Affairs and
26 Education; the Office of Assistant Director-General for Legal and Legislative
27 Affairs; the Office of Assistant Director-General for Environmental Planning and
28 Research; the Office of Assistant Director-General for Ecosystems Management;
29 the Office of Assistant Director-General for Environmental Regulations; and the
30 Office of Assistant Director-General for Administrative, Financial and
31 Management Services.

32 **SEC. 7. The Director-General** – The Director- General shall be appointed
33 by the President for a term of six (6) years from the time of the original date of
34 appointment without prejudice to the termination of such appointment for just
35 cause. He shall have the status, rank and compensation equivalent to that of a
36 cabinet secretary.

37 The Director-General shall have the following powers and functions:

- 1 (a) Establish policies and standards for the efficient and effective
2 operation of the Authority in accordance with the overall program of the
3 Government;
- 4 (b) Implement rules, regulations and other issuances necessary in
5 executing the Authority's mandate, objectives, policies, plans,
6 programs and projects and in compliance with international legal
7 instruments and agreements regarding environmental protection and
8 pollution prevention and control;
- 9 (c) Advise the President on the promulgation of policies, rules and
10 regulations and other issuances relative to environmental protection
11 and pollution prevention and control;
- 12 (d) Exercise overall supervision relative to the Authority's functions and
13 activities;
- 14 (e) Delegate authority for the performance of any administrative or
15 substantive function to the Authority's subordinate officials;
- 16 (f) Perform such other functions as may be provided by law or as
17 appropriately assigned by the President.

18 **SEC. 8. The Deputy Director-General** – The Director-General shall be
19 assisted by a Deputy Director-General who shall be appointed by the President
20 upon the recommendation of the Director-General. The Deputy Director-General
21 shall have a fix term of six (6) years from the time of the original date of
22 appointment without prejudice to the termination of such appointment for just
23 cause. He shall have the status, rank and compensation equivalent to that of a
24 cabinet undersecretary.

25 **SEC. 9. The Office of the Assistant Director-General for Public Affairs**
26 **and Education.** - The Office of the Assistant Director-General for Public Affairs
27 and Education shall have the following powers and functions:

- 28 (a) Establish and formulate programs aimed at increasing the awareness
29 of the general public regarding environmental issues and concerns;
- 30 (b) Design and implement programs geared towards behavioral change
31 and value formation aimed at altering polluter behavior and inculcating
32 the environmental ethics of stewardship and the principles and
33 practices of sustainable development;
- 34 (c) Plan and engage social-marketing strategies aimed at generating
35 broad-based and multi-sectoral support for environmental protection
36 and pollution prevention and control;

- 1 (d) Disseminate information on policies, plans, programs and projects
2 relating to environmental protection and pollution prevention and
3 control to the general public;
- 4 (e) Perform such other functions as may be assigned by the Director-
5 General.

6 **SEC. 10. *The Office of the Assistant Director-General for Legal and***
7 ***Legislative Affairs.*** - The Office of the Assistant Director-General for Legal and
8 Legislative Affairs shall have the following powers and functions:

- 9 (a) Provide legal advice and services on all policies, programs and
10 operational matters of the Authority;
- 11 (b) Handle administrative cases filed against any personnel of the
12 Authority and submit recommendations pertaining thereto;
- 13 (c) Initiate proper legal actions and proceedings such as but not limited to,
14 the prosecution of violators of the Authority's orders, rules and
15 regulations;
- 16 (d) Provide legal representation to the Authority in cases where the
17 Authority or any of its duly authorized officers becomes a party to a suit
18 in relation to the exercise of its powers and functions;
- 19 (e) Coordinate with Congress and various agencies in the review,
20 evaluation and formulation of relevant guidelines, rules and regulations
21 and other legislative measures pertaining to environmental protection
22 and pollution prevention and control; and
- 23 (f) Perform such other functions as may be assigned by the Director-
24 General.

25 **SEC. 11. *The Office of the Assistant Director-General for***
26 ***Environmental Planning and Research.*** – The Office of the Assistant Director-
27 General for Environmental Planning and Research shall have the following
28 powers and functions:

- 29 (a) Design, establish and operate an environmental and management
30 information system, including data bank development based on
31 geographic information gleaned from periodic environmental
32 surveillance, reconnaissance and monitoring activities utilizing
33 complementary technologies including but not limited to, aerial
34 photography and other remote sensing systems;
- 35 (b) Formulate comprehensive, multi-year action plans for environmental
36 protection and pollution prevention and control to be endorsed to
37 NEDA for adoption into the national development plan;

- 1 (c) Formulate and recommend to the Authority environmental quality
2 standards for water, air, land, noise, radiation, and the like and
3 environmental management guidelines for gaseous, liquid, solid, as
4 well as, toxic and hazardous wastes;
- 5 (d) Formulate and recommend an integrated research program pertaining
6 to water, air, and land pollution, including research into
7 environmentally-sound technologies and pollution control technologies;
- 8 (e) Conduct research studies on specific environmental problems
9 including, but not limited to, soil erosion and deforestation;
- 10 (f) Review, analyze and evaluate existing as well as proposed
11 environmental protection and pollution prevention and control policies,
12 plans, programs and projects;
- 13 (g) Prepare the environmental quality status report to be submitted to the
14 President and Congress;
- 15 (h) Conduct post-audit studies of environmental impact assessments
16 prepared in accordance with Presidential Decree 1586;
- 17 (i) Provide research laboratory services pursuant to the Authority's
18 exercise of regulatory functions such as, but not limited to, the setting
19 of standards and permit and licensing activities;
- 20 (j) Provide research support services to the field offices of the Authority in
21 order to ensure their efficient and effective operation; and
- 22 (k) Perform such other functions as may be assigned by the Director-
23 General.

24 **SEC. 12. *The Office of the Assistant Director-General for Ecosystems***

25 ***Management.*** – The Office of the Assistant Director-General for Ecosystems
26 Management shall have the following powers and functions:

- 27 (a) Formulate an integrated, multi-sectoral and multi-disciplinary national
28 environmental protection and pollution prevention and control strategy;
- 29 (b) Formulate policies, rules and regulations for the protection of
30 vulnerable ecosystems such as but not limited to coastal zones, inland
31 lakes and critical islands;
- 32 (c) Formulate operational plans on the rehabilitation or upgrading of the
33 quality of degraded and damaged ecosystems;
- 34 (d) Coordinate the implementation of the approved National Environmental
35 Protection Strategy, as well as the operational plans for ecosystem and
36 rehabilitation; and
- 37 (e) Perform such other functions as may be assigned by the Director-
38 General.

1 **SEC. 13. *The Office of the Assistant Director-General for***
2 ***Environmental Regulations.*** – The Office of the Assistant Director-General for
3 Environmental Regulations shall exercise the following powers and functions:

- 4 (a) Design, establish and institutionalize a unified environmental permit
5 and licensing system for pollution control, land use planning/zoning
6 and environmental impact assessment;
- 7 (b) Review, analyze and evaluate pertinent technical/legal documents
8 pertaining to environmental permitting/licensing in order to determine
9 the environmental acceptability and/or soundness of programs,
10 projects and activities that might significantly affect the environment;
- 11 (c) Issue standards, rules and regulations to govern the approval of plans
12 and specifications for sewage works and industrial waste disposal
13 systems and the issuance of permits relative thereto, inspect the
14 construction and maintenance of sewage works and industrial waste
15 disposal systems for compliance to plans;
- 16 (d) Make, alter or modify orders requiring the discontinuance of pollution
17 specifying the conditions and the time within which such
18 discontinuance must be accomplished;
- 19 (e) Issue, renew, or revoke permits, under such conditions as it may
20 determine to be reasonable, for the prevention and abatement of
21 pollution, for the discharge of sewage and industrial waste or for the
22 installation or operation of sewage works and industrial disposal
23 systems or parts thereof;
- 24 (f) Perform investigative and monitoring functions to ensure the
25 compliance of proponents with the Authority's rules and regulations;
- 26 (g) Coordination and implementation by the public and private sectors of
27 the NEDA-adopted multi-year action plan for environmental protection
28 and pollution prevention and control; and
- 29 (h) Perform such other functions as may be assigned by the Director-
30 General.

31 **SEC. 14. *The Office of the Assistant Director-General for***
32 ***Administrative, Financial and Management Services.*** - The Office of the
33 Assistant Director-General for Administrative, Financial and Management
34 Services shall have the following powers and functions:

- 35 (a) Administer the corporate mandates of the Authority;
- 36 (b) Provide services relative to personnel information, records, supplies,
37 equipment, collection and disbursements, security, and custodial
38 works;

- 1 (c) Advise the Authority relative to budgetary, financial, and management
2 improvement matters; and
3 (d) Perform such other functions as may be assigned by the Director-
4 General.

5 **SEC. 15. Regional Regulatory Offices of the Authority.** – Field offices
6 of the Authority are hereby created and established to cover regulatory regions in
7 the following areas:

- 8 (a) Central Regulatory Region to cover the Laguna de Bay Region and the
9 rest of the National Capital Region;
10 (b) Northern Luzon Regulatory Region to cover Regions I, II, III and the
11 Cordilleras;
12 (c) Southern Luzon Regulatory Region to cover Regions IV and V;
13 (d) Eastern Visayas Regulatory Region to cover Region VIII and the
14 Provinces of Cebu, Bohol and Siquijor;
15 (e) Western Visayas Regulatory Region to cover Region VI and the
16 Provinces of Negros Occidental and Oriental;
17 (f) Northern Mindanao Regulatory Region to cover Regions IX, X, XIII and
18 ARMM; and
19 (g) Southern Mindanao Regulatory Region to cover Regions XI and XII.

20 The regional regulatory offices of the Authority shall have the following
21 powers and functions:

- 22 (1) Assist the EMUs and other environmental quality management
23 areas within their regional jurisdiction in the implementation of
24 environmental protection and pollution prevention and control
25 laws, as well as, implement policies, plans, programs, projects,
26 rules and regulations of the Authority in consonance with the
27 objectives of sustainable development;
28 (2) Coordinate with other departments, offices, and agencies in the
29 region and local government units in the enforcement of
30 environmental protection and pollution prevention and control
31 laws;
32 (3) Formulate, monitor, evaluate and implement regional medium
33 and long-term action plans for environmental protection and
34 pollution prevention and control;
35 (4) Conduct appropriate field research and investigative activities
36 such as, but not limited to, environmental surveillance,
37 reconnaissance and monitoring in the region;

1 (5) Respond to complaints and queries from the public regarding
2 environmental protection and pollution prevention and control;

3 (6) Provide support services to the regional Environmental
4 Adjudication Commissions; and

5 (h) Perform such other functions as may be assigned by the Director-
6 General.

7 **SEC. 16. Environmental Adjudication Commission.** - The Pollution
8 Adjudication Board created under Executive Order No. 192 is hereby
9 reconstituted into the Environmental Adjudication Commission (EAC). It shall be
10 composed of a Chairman and six (6) Commissioners to be appointed by the
11 President, through the recommendation of the Director-General, from the
12 following sectors: business, academe, professional organizations on
13 environmental protection practice, environmental non-government organizations
14 (NGOs) and labor: *Provided*, That there shall be at least one (1) member
15 representing the sectors as mentioned: *Provided, further*, That the Chairman of
16 the Commission shall be an environmental protection practitioner for at least five
17 (5) years prior to his appointment.

18 The Chairman and the Commissioners shall have a fix term of six (6)
19 years from the time of the original date of appointment without prejudice to the
20 termination of such appointment for just cause. Of those first appointed, three
21 members shall hold office for six (6) years, two members for four (4) years, and
22 the last member for two (2) years.

23 The Chairman shall have the status, rank and compensation equivalent to
24 that of a cabinet undersecretary while the Commissioners shall have the status,
25 rank and compensation equivalent to that of an assistant secretary.

26 The EAC shall have the following powers and functions:

27 (a) Hear and decide all cases falling within its jurisdiction as provided
28 for in Executive Order No. 192 and other related laws and
29 issuances;

30 (b) Make, issue, alter or modify orders necessary and incidental to the
31 enforcement of decisions made by the Commission;

32 (c) Serve as arbiter for the determination of reparation or restitution of
33 damages and losses resulting from environmental degradation or
34 pollution;

35 (d) Deputize in writing or command and call the appropriate
36 government agencies or instrumentalities for the purpose of
37 enforcing its decisions;

1 (e) Issue, in case of imminent danger to life or property, an ex-parte
2 order directing the discontinuance of pollution or wastes, or
3 temporary suspension or cessation of operation of the equipment,
4 project or activity and other acts causing environmental
5 degradation, generating such pollutants or wastes, without the
6 necessity of a previous public hearing;

7 (f) Provide for its own organizational set up and rules of procedure in
8 the conduct of its official functions; and

9 (g) Exercise such powers and perform such other functions as may be
10 necessary to carry out its duties and responsibilities under this Act.

11 The EACs powers and functions may be delegated to the Regional EACs
12 in accordance with the rules and regulations to be promulgated by the
13 Commission.

14 **SEC. 17. Restructuring of the Philippine Council for Sustainable**
15 **Development.** – The Philippine Council for Sustainable Development (PCSD)
16 created by Executive Order No. 15 is hereby restructured. The PCSD shall be
17 chaired by the NEDA Director-General and co-chaired by the Secretary of
18 Natural Resources and the Director-General of the Authority. The Secretariat
19 functions of the PCSD shall be transferred to the Authority.

20 The PCSD may create and establish Regional Councils for Sustainable
21 Development (RCSDs), to be chaired by a governor, elected from among the
22 member provinces and vice-chaired by the highest regional officials of the
23 Authority, the NEDA and the Department of Natural Resources.

24 **SEC. 18. Policy and Program Advisory Body.** - There is hereby created
25 a Policy and Program Advisory Body hereinafter referred to as the Advisory Body
26 to be composed of all relevant officials and staff of the Authority; officials and
27 staff of other relevant government agencies and instrumentalities; relevant
28 industry and business organization officials; registered/recognized non-
29 government and people's organizations with known interest in environmental
30 protection; and other interested individuals and entities with known contributions
31 to environmental and pollution concerns.

32 The Advisory Body shall serve as the consultative assembly that shall
33 assist the Authority in the formulation and development of comprehensive,
34 strategic multi-year plans and programs for environmental protection, pollution
35 prevention and control: *Provided*, That the Director-General shall issue a list of
36 actual members and appropriate authorization for the attendance of such
37 individuals and entities in every meeting or assembly of the Advisory Body:
38 *Provided, further*, That the Advisory Body shall meet at least once every calendar

1 year: *Provided, finally*, That such attendance shall be voluntary and authorized
2 attendees shall not be entitled to any form of compensation.

3 **SEC. 19. *Qualifications.*** - No person shall be appointed Director-
4 General, Deputy Director-General, or Assistant Director-General of the Authority
5 unless he is a citizen and resident of the Philippines, of good moral character,
6 and proven competence in any of the following fields: (a) environmental science
7 and/or similar disciplines; (b) public administration; (c) law; (d) management;
8 (e) relevant social science disciplines.

9 **SEC. 20. *Organization.*** - The Director-General, with the approval of the
10 President, may reorganize, restructure, and redefine the functions of the offices
11 defined in previous Sections in line with the effective discharge of the powers and
12 functions of the Authority under this Act.

13 CHAPTER III

14 TRANSITORY PROVISIONS

15 **SEC. 21. *Abolition of Agencies, Transfer of Powers, Functions,***
16 ***Rights, Assets and Liabilities.*** - The Environmental Management Bureau and
17 the Ecosystem Research and Development Bureau of the Department of
18 Environment and Natural Resources created under Executive Order No. 192 and
19 the Laguna Lake Development Authority created under Executive Order No. 927,
20 series of 1983, are hereby abolished subject to the provisions of this Act.

21 The powers and functions, including the developmental and corporate
22 mandates and field services of the said agencies are hereby transferred to the
23 Authority and the Authority shall, by virtue of this Act, be subrogated to all the
24 rights and assets of aforesaid agencies and all other agencies and government
25 units whose functions and powers have been transferred to the Authority. All the
26 contracts and liabilities of said offices and agencies are hereby transferred to and
27 assumed by the Authority and shall be acted upon in accordance with the
28 Auditing Code and other pertinent laws, rules and regulations.

29 **SEC. 22. *Rationalization or Transfer of Functions of Related***
30 ***Agencies.*** - The following functions of the respective agencies are hereby
31 transferred to the Authority:

32 (a) The land use and zoning functions of the Metro Manila
33 Development Authority, created by virtue of R.A. 7924;

34 (b) The land use and zoning functions of the Housing and Land Use
35 Regulatory Board, formerly the Human Settlements Regulatory
36 Commission created by virtue of E.O. No. 648, series of 1981, as
37 amended by E.O. No. 90, series of 1986;

- 1 (c) The regulatory and control functions for pesticides and other
2 agricultural chemicals of the Fertilizer and Pesticide Authority
3 created by virtue of P.D. 1144;
- 4 (d) The functions for fuel testing and regulatory activities for fuels and
5 fuel additives and other similar chemicals of the Department of
6 Energy created by virtue of R.A. 7638;
- 7 (e) The mines safety and environmental protection functions of the
8 Mines and Geo-Sciences Bureau provided under R.A. No. 7942;
- 9 (f) The regulatory functions for drinking water quality standards of the
10 Department of Health created by virtue of E.O. 192; and
- 11 (g) The accreditation and authorization of private emission testing
12 centers provided for under R.A. No. 8749 and subsequent
13 issuances on emission regulations under the motor vehicle
14 inspection systems.

15 The foregoing transfer of powers and functions shall include all applicable
16 funds and appropriations, records, equipment, property, and such personnel as
17 may be necessary: *Provided*, That only such amount of funds and appropriations
18 of these agencies as well as only the personnel thereof which are completely or
19 primarily involved in the exercise of the functions to be transferred to the
20 Authority shall be affected by such transfer.

21 The Philippine Coast Guard (PCG) is hereby designated as the lead
22 enforcement arm of the Authority in marine pollution regulation. For this purpose,
23 the Authority and the PCG shall institute within sixty days (60) upon the approval
24 of this Act, such mechanisms and collaborative networks and undertakings to
25 implement this provision.

26 **SEC. 23. Structure and Staffing Pattern.** - The Director-General shall,
27 within (60) days upon the effectivity of this Act, prescribe and approve the
28 organizational framework and staffing pattern of the Authority.

29 The positions created therein shall be filled by regular appointments by the
30 President or the Director-General as the case may be: *Provided*, That in the
31 filling of positions created, preference shall be given to the personnel of the
32 Environmental Management Bureau, Ecosystems Research and Development
33 Bureau, the Laguna Lake Development Authority and related agencies affected
34 by the provisions of this Act: *Provided, however*, That such individuals comply
35 with the qualification standards set by the Civil Service Commission for the
36 positions that they shall be appointed to: *Provided, finally*, That if such individuals
37 possess the same qualifications, seniority shall be given preference.

1 **SEC. 24. *Personnel Rights and Separation from Service.*** - The
2 Director-General, heads of concerned agencies and the Chairman of the Civil
3 Service Commission shall see to it that all the rights of personnel affected by the
4 abolition, rationalization and reorganization are respected in accordance with
5 prevailing civil service laws, rules and regulations.

6 Employees separated from the service as a result of this reorganization
7 shall, within six (6) months from their separation from the service, receive the
8 retirement benefits to which they may be entitled under existing laws, rules, and
9 regulations.

10 **CHAPTER IV**
11 **APPROPRIATIONS**

12 **SEC. 25. *Appropriations.*** - Such amounts as may be necessary to
13 effectively and efficiently carry out the provisions of this Act is hereby
14 appropriated from the funds of the National Treasury not otherwise appropriated:
15 *Provided*, That the herein appropriated amount shall only be supplemental to the
16 funds and similar proceeds provided for under Sections 21 and 22 of this Act.
17 Thereafter, such amounts as may be necessary for the continued operation and
18 maintenance of the Authority shall be included in the annual General
19 Appropriations Act.

20 **CHAPTER V**
21 **MISCELLANEOUS PROVISIONS**

22 **SEC. 26. *Disclosure and Divestment of Financial Interests.*** - Before
23 assumption of office, the Director-General of the Authority, the Deputy Director-
24 General, and the Assistant Directors-General shall submit to the Civil Service
25 Commission a list of all companies, partnerships, or business enterprises,
26 including non-profit organizations, in which they or any immediate member of
27 their families within the second degree of consanguinity or affinity have any form
28 of financial interest or employment relationship, including consultancy work:
29 *Provided*, That upon assumption of office, all other employment, including
30 consultancy work, held by such officers of the Authority shall immediately be
31 terminated.

32 Within thirty (30) days upon assumption of office, a complete divestment
33 of financial interests in any institution, firm, or company, which fall under the
34 supervisory or regulatory jurisdiction of the Authority, shall be made.

35 **SEC. 27. *Record Keeping, Inspection, Monitoring, and Entry by the***
36 ***Philippine Environmental Protection Authority.*** -

37 (a) For purposes of developing or assisting the development of any
38 implementation plan, any standard of performance or any emission

1 standard, and of determining whether any person violates any of
2 such standard or any requirement of such plan, the Authority may
3 require any person who is subject to the provisions of this Act or
4 any other requirement provided for in this Act or its implementing
5 rules and regulations to:

- 6 (1) Establish and maintain records;
- 7 (2) Prepare reports;
- 8 (3) Install, use and maintain monitoring equipment or methods;
- 9 (4) Sample emissions in accordance with the methods and at such
10 intervals and locations, as the Authority shall prescribe;
- 11 (5) Keep records on control equipment parameters, production
12 variables or other indirect data when direct monitoring of
13 emission is impracticable; and
- 14 (6) Provide such other information as may reasonably be required.

15 (b) The Authority or its authorized representative, upon presentation of his
16 credentials:

- 17 (1) Shall have the right of entry to, upon or through any premises of
18 such person or entity in which any records required to be
19 maintained under the paragraph (1) hereof are located; and
- 20 (2) May, at reasonable times, have access to and copies of any
21 records, inspect any monitoring equipment or methods and
22 sample any emission/discharges which such person is required
23 to sample under paragraph (a) hereof;

24 (c) The Authority shall, in the case of any person who is the owner or
25 operator of a major stationary source, and may, in the case of any
26 other person, require enhanced monitoring and submission of anti-
27 pollution/emission/discharge compliance certification. Such
28 compliance certifications shall include information regarding the
29 following:

- 30 (1) Identification of the applicable requirement that is the basis of
31 the certification;
- 32 (2) Compliance status;
- 33 (3) Whether compliance is continuous or intermittent; and
- 34 (4) Such other facts as may reasonably be required.

35 (d) Submission of a compliance certification shall in no way limit the
36 PEPA's authority to investigate or otherwise implement the provisions
37 of this Act.

1 (e) Any record, report or information obtained under this Section shall be
2 available to the public, except upon a satisfactory showing to the
3 Authority, that records, reports, or information, or parts thereof, if made
4 public, would divulge methods or processes entitled to protection as
5 trade secrets.

6 **SEC. 28. Role of Local Government Units.** - All local government units
7 shall, pursuant to national policies and subject to the supervision, control and
8 review of the Authority, enforce the provisions of this law, *Provided*, That the
9 Authority shall take into consideration the principles and provisions of devolution
10 and local autonomy in the Local Government Code.

11 Local government units shall design their own implementation plans to
12 address the causes of environmental pollution with their respective jurisdictional
13 boundaries to guarantee the national standards set by the Authority or stricter
14 standards if desired by such local government units.

15 Each local government unit may develop and submit to the Authority a
16 procedure for carrying out the provision of this Section in their respective
17 localities. If the Authority finds the local government unit procedures adequate, it
18 may delegate to such unit any authority in carrying out this function: *Provided*,
19 *however*, That PEPA shall maintain its authority to independently inspect the
20 enforcement procedure adopted: *Provided, further*, That the Authority shall have
21 the power to take over all or parts of a local government program if the local
22 government unit concerned lacks the capability to carry out the provisions of this
23 Act, or fails to meet or fairly enforce the national standards set by the Authority.

24 **SEC. 29. Cooperative Activities.** - The Authority shall encourage
25 cooperative activities by the national and local governments for environmental
26 protection and pollution prevention and control. It shall also encourage the
27 enactment of -- in so far as practicable and in the light of varying conditions and
28 needs -- improved and uniform laws and local ordinances relating to
29 environmental protection and pollution prevention and control so as to assure the
30 utilization of all appropriate and available facilities and resources within the
31 National Government.

32 **SEC. 30. Participation of the People and Non-Government**
33 **Organizations in Environmental Protection and Pollution Prevention and**
34 **Control.** - The people's right to a healthy environment shall also vest upon the
35 people the duty to engage in activities to protect the environment and to prevent
36 pollution.

37 People's and non-government organizations or NGOs undertaking
38 environment-related activities shall be encouraged in their efforts to organize,

1 educate and motivate the people in addressing pertinent environmental issues
2 and problems at the local and national levels including their membership and
3 participation to the activities of the Policy and Program Advisory Body provided
4 for under Section 18 of this Act.

5 **SEC. 31. *Citizen's Suit.*** - Any citizen or group of citizens shall have the
6 right and power to institute the appropriate legal action and administrative
7 proceeding, as the case may be, against violators of environmental protection
8 and pollution control laws.

9 No temporary or permanent injunction or restraining order in any case
10 involving or arising out of any administrative complaint filed before the Authority
11 shall be issued by any court or other entity.

12 **SEC. 32. *Reorganization of the Department of Environment and***
13 ***Natural Resources (DENR).*** - As a consequence of the creation of the PEPA
14 pursuant to this Act, the President is hereby authorized to reorganize the DENR
15 into an agency that shall be responsible for the development and conservation of
16 natural resources such as but not limited to, lands, mines and minerals, water,
17 forestry, protected areas and similar resources: *Provided,* That the reorganization
18 shall be in accordance with applicable civil service laws, rules and regulations.

19 **SEC. 33. *National Environment Protection Fund (NEPFUND).*** - There
20 is hereby created a National Environment Protection Fund to be administered by
21 the Authority for the purpose of financing adequate, suitable and appropriate
22 measures to protect and improve environmental quality. The administration of the
23 NEPFUND shall be in accordance with the corporate powers vested upon the
24 Authority and shall be separate and distinct from the appropriations which the
25 Authority shall receive in accordance with Section 25 of this Act: *Provided,* That
26 the Authority, in coordination with the local government units and other relevant
27 EMUs, shall institute a mechanism whereby funds collected under this Section
28 shall be extended on a regular basis to concerned LGUs and relevant EMUs
29 solely for the purpose of enforcing environmental protection laws and developing
30 local regulations in furtherance of this Act.

31 To finance the said Fund, there is hereby imposed the following:

- 32 (a) A national environment protection fee equivalent to ten percent (10%)
33 of the total fees charged, which in no case shall exceed the amount of
34 one hundred pesos (P100.00) for every business or non-business
35 permit or license issued by the government.
- 36 (b) An allocation equivalent to ten percent (10%) of the total unclaimed
37 bank balances escheated in favor of the State under Act No. 3936, as
38 amended (Unclaimed Balances Law);

- 1 (c) Proceeds from fines and penalties and user charges prescribed in
2 natural resource conservation and environmental protection laws and
3 other penalties imposed by the Authority;
- 4 (d) Proceeds from amounts levied by public utility firms as environment
5 fees and/or environment protection fees; and
- 6 (e) Grants, subsidies, endowments and donations in the form of
7 contributions. Such contributions shall be exempt from the payment of
8 taxes.

9 **SEC. 34. Repealing Clause.** - All laws, presidential decrees, executive
10 orders, letters of instruction, rules and regulations or parts thereof inconsistent
11 with the provisions of this Act are hereby repealed or modified accordingly.

12 **SEC. 35. Separability Clause.** - If, for any reason, any portion or part of
13 this Act is declared unconstitutional or invalid, the rest of the provisions not
14 affected thereby shall remain in full force and effect.

15 **SEC. 36. Effectivity.** - This Act shall take effect fifteen (15) days after its
16 complete publication in at least two (2) newspapers of general circulation.

Approved,