

Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

FOURTEENTH CONGRESS

Second Regular Session
HOUSE BILL NO. _____

Introduced by Hon. Mark O. Cojuangco

**AN ACT MANDATING THE IMMEDIATE RE-COMMISSIONING AND
COMMERCIAL OPERATION OF THE BATAAN NUCLEAR POWER
PLANT, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER
PURPOSES**

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

SECTION 1. *Title* - This Act shall be known as the "Bataan Nuclear Power Plant Re-Commissioning Act of 2008."

SECTION 2. *Declaration of Policy* - Section 16, Article II of the 1987 Constitution provides that: "The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature".

Section 8, Article II further provides that: "The Philippines, consistent with the national interest, adopts and pursues a policy of freedom from nuclear weapons in its territory.

Therefore, it is hereby the declared policy of the State to develop nuclear energy as a distinct and substantial part of the country's energy mix.

Such a policy is intended as pro active action in addressing the ever worsening global warming and carbon emissions issue and the possible sanctions against the use of carbon based fuels which are likely to occur in the future.

Such a policy is also pro active in addressing the energy sources necessary in the

coming “clean” hydrogen economy.

Most importantly, such a policy will partially but substantially address, the three Gigawatt shortfall in the nation’s electric generating capacity projected to happen before the year 2012.

SECTION 3. *Mandate & Authority to Re-commission* – It is hereby mandated and authorized that the immediate re-commissioning and commercial operation of the Bataan Nuclear Power Plant (BNPP) shall be undertaken by the National Power Corporation (NAPOCOR), in consonance with its mandate under R. A. 6395, Series of 1971. This vested mandate and authority shall be under the direct supervision and control by the Department of Energy and regulations and safeguards by the Philippine Nuclear Research Institute (PNRI), or the subsequent governmental agency mandated to oversee the licensing and regulations of a nuclear power plant. The NAPOCOR may spin-off portions of its organization which are presently overseeing the preservation and maintenance of BNPP, its engineering and technical, and administrative staff to form a government owned corporation to further hasten and streamline the re-commissioning process of the nuclear plant.

SECTION 4. *Warranty over Mechanical & Civil Portions including the Nuclear Steam Supply System (NSSS) and Balance of Plant Equipment (BOP)* - The NAPOCOR, after thorough assessment, evaluation, maintenance, repair, replacements, rehabilitation or upgrades, necessary for the Mechanical & Civil Portions including the Nuclear Steam Supply System (NSSS) and Balance of Plant Equipment (BOP) shall warrant that the BNPP conforms to the Philippine nuclear industry state of the art as of July 1, 1986. Provided, that, it will also retain and/or include modifications to allow all US Nuclear Regulatory Commission rulings regarding operating guideline revisions pertinent to “the Three Mile Island” nuclear accident which occurred on March 28, 1979. And subsequent operating guideline revisions viz the series or model of nuclear plants to which the BNPP belongs, where applicable.

SECTION 5. *Warranty over Instrumentation and Control (I & C) Equipment* - The existing main instrument and control equipment may be scrapped, selectively or in whole as needed. The NAPOCOR or the subsequent government corporation shall also ensure that the Instrumentation and Control (I & C) portions, i.e. electronic controls, sensors, and data communication systems (servo drives and actuators - non-mechanical) are modernized according to the latest state of the art in the nuclear power industry as of the date at which this Act shall take into effect. Digital systems should be employed similar to the upgrades being implemented by old nuclear plants

implementing improvements of its I & C systems, but only applicable to the series or model of nuclear plants to which the BNPP belongs, where applicable. Although modern, such systems must also be mature, stable, and well accepted (in prior mainstream use) by the western nuclear power industry.

Should there be a delay in the implementation of this Act, then, in no case shall any I & C equipment be installed that will be greater than or equal to ten (10) calendar years into its product life cycle, i.e. the commercial launching date of the product. The reckoning date for these products age will be computed from the date of re-commissioning of the BNPP.

Such upgrades in the I & C equipment should already include all revisions and guidelines pertinent to the Three Mile Island and Chernobyl accidents, but only applicable to the series or model of nuclear plants to which the BNPP belongs, where applicable.

Nothing in this section shall be interpreted as giving the NAPOCOR or the subsequent government corporation the blanket authority to implement, apply or institute physical changes or other operating guidelines not otherwise applicable to the series or model of nuclear plants to which the BNPP belongs.

SECTION 6. *Hiring of Technical Personnel* - Upon the enactment of this Act, the NAPOCOR or the subsequent government corporation shall forthwith hire, recruit, and/or engage the services of the necessary skilled manpower for the management and operation of all the technical aspects of the plant.

For the first ten years of operation, the Philippine nationality requirements for the filling up of the technical, supervisory and managerial positions required by the plant is hereby waived.

SECTION 7. *Development of Local Skilled Manpower* - The NAPOCOR or the subsequent government corporation shall implement a program for training, cultivating and developing a pool of necessary local skilled manpower for the management and operation of all the technical aspects of the plant and for a future nuclear power industry.

The University of the Philippines is hereby mandated to offer courses in nuclear engineering and nuclear plant operation.

A separate budget for hands on training, simulator training and/or further academic training abroad of operating personnel shall be allocated, chargeable against government revenues generated from all power generating and power distribution entities, and shall be of a magnitude that is a substantial percentage if not equal to the BNPP manpower budget.

SECTION 8. *Compensation/Salary Rates* - The state is authorized and empowered to pay competitive rates which is defined as the average between the United States, Canadian (denominated in U.S. Dollar) and France (denominated in Euro) rates for technical personnel in managerial and supervisory positions, and half of the average rate of the United States, Canadian (denominated in U.S. Dollar) and France (denominated in Euro) rates for technical non-supervisory position.

SECTION 9. *Allocations for Disposal of Spent Fuel and Decommissioning of the BNPP* -In the operation of the plant, the NAPOCOR or the subsequent government corporation shall allocate as a sinking fund U.S. ¢ 0.1-¢ 0.2/kwh to cover the expenses for the future decommissioning of the plant at the end of its operational life. NAPOCOR or the subsequent government corporation shall also allocate U.S. ¢0.1/Kwh for costs of radioactive waste disposal and spent fuel disposal program of BNPP.

Upon collection of fees for its product, the BNPP shall turn over the said funds to the National Treasury on a monthly basis. The said fund shall then be converted at the first day of every month into hard currency, which is defined as a fifty percent (50%) mix of U.S. Dollar and Euro.

These funds shall be under the custody of the Treasurer of the Philippines.

Disbursement and fund management shall be governed by implementing guidelines to be agreed upon by DOE, NAPOCOR or the subsequent government corporation, PNRI and the Department of Finance. These institutions will exert their utmost effort to ensure that the value of the fund is not eroded. These institutions shall also ensure that the funds earn at least the market rates of interest in dollar or euro currencies, if not better.

The disposal of radioactive wastes may be through a local scheme to be worked out by Congress or, through an IAEA recognized re-processor. The account for the funds shall be called: The BNPP Spent Fuel Disposal Fund (BSFDF). The BSFDF can only be utilized for final disposition of spent fuel.

The account for the funds set aside for the purpose of decommissioning the plant and making safe the plant site at the end of its operating or physical lifetime of forty years shall be called: The BNPP End of Life Decommissioning Fund (BELDF).

SECTION 10. *Reuse of Reprocessed Fuel* - Reprocessed Fuel may be reused by the BNPP: Provided, That in such a case, the BNPP Spent Fuel Disposal Fund shall not

be utilized.

SECTION 11. *Definition & Extension of Operational Lifetime* - The operational lifetime of the BNPP shall be defined as forty (40) years from the date of its commercial operation.

Extension of the defined operational lifetime of the BNPP may be granted by the PNRI or the subsequent governmental agency tasked to perform the licensing and regulations of nuclear power plants in the country at the time of application for the extension of its operational lifetime: Provided, That the duration of the extended operational lifetime does not exceed twenty (20) years per extension.

Such an extension of BNPP's commercial life is to be determined by the technical realities of the day, and the prior experience of license extensions for similar plants operated in Canada, the U.S. and France.

SECTION 12. *Emergency Evacuation Plan* - The NAPOCOR shall establish an emergency evacuation plan within the prescribed boundaries around the plant in accordance with the regulatory requirements of PNRI.

SECTION 13. *Cost of Rehabilitation* - The NAPOCOR shall endeavor to complete this mandate at a cost that is substantially below one half of the cost of a brand new coal fired power plant of equal capacity. Under no circumstances shall the cost exceed the price of a brand new coal fired power plant of equivalent power generating capacity.

SECTION 14. *Mode of Re-commissioning* - The President through the DOE or a subsequent agency which may be created by the President or Congress is hereby given the authority to determine and decide the mode by which the mandate of this Act is to be attained, as long as the conditions provided for in the preceding sections are met. Such mode may be by administration, and/or by contract to rehabilitate but not to operate.

SECTION 15. *Implementing Rules and Regulations* - The Secretary of Energy, in coordination with the President of the National Power Corporation and the Director of the Philippine Nuclear Research Institute, shall promulgate the necessary rules and regulations for the effective implementation of this Act.

SECTION 16. *Oversight Committee* - An Oversight Committee is hereby created which shall be composed of Chairmen of the Committees on Energy of the Senate and the House of Representatives and four (4) additional members from each House to be designated by the Senate President and the Speaker of the House of Representatives, respectively. The Oversight Committee shall monitor and ensure the proper implementation of this Act.

SECTION 17. *Appropriations* - The amount necessary for the initial implementation of this Act shall be charged against the appropriations of the Department of Energy under the current General Appropriations Act, or appropriated and covered by NAPOCOR or subsequent government corporation in its annual budget. Thereafter, such sum as may be necessary for its full implementation shall be included in the annual General Appropriations Act as a distinct and separate item.

SECTION 18. *Separability Clause* - If for any reason, any section or provision of this Act is declared to be unconstitutional, the other sections or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 19. *Repealing Clause* - All laws, decrees, executive orders, rules and regulations, and other issuances, or any part thereof, which are inconsistent with this Act, are hereby repealed or modified accordingly.

SECTION 20. *Effectivity Clause* - This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation.

Approved,