

MALACAÑANG
MANILA

PRESIDENTIAL DECREE NO. 1144

CREATING THE FERTILIZER AND PESTICIDE
AUTHORITY AND ABOLISHING THE
FERTILIZER INDUSTRY AUTHORITY

WHEREAS, it is Government policy to provide adequate assistance to the agricultural sector in line with the national objective of increasing food production;

WHEREAS, fertilizer and pesticides are vital inputs in food production and must be supplied in adequate quantities at reasonable costs;

WHEREAS, improper pesticides usage presents serious risks to users, handlers, and the public in general because of the inherent toxicity of these compounds which are, moreover, potential environmental contaminants;

WHEREAS, the fertilizer and pesticide industries have much in common in terms of clientele, distribution channels, system of application in farmers' fields, and technical supervision by the same farm management technicians under the government's food production program;

WHEREAS, the foregoing consideration make it desirable to have one agency to regulate fertilizer importation, manufacture, formulation, distribution, delivery, sale, transport and storage as well as pesticide labeling, distribution, storage, transportation, use and disposal;

WHEREAS, the Fertilizer Industry Authority was created by Presidential Decree No. 135, date 22 February 1973, and amended by Presidential Decree Nos. 517 and 669, dated 19 July 1974 and 11 March 1975 respectively, in order to regulate, control and develop the fertilizer industry but does not include the pesticide industry in its jurisdiction;

WHEREAS, there is an urgent need to create a technically — oriented government authority equipped with the required expertise to regulate, control, and develop both the fertilizer and the pesticide industries;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby decree and order the following:

SECTION 1. *Creation of the Fertilizer and Pesticide Authority.* The Fertilizer and Pesticide Authority, hereinafter referred to as the FPA, is hereby created and attached to the Department of Agriculture for the purpose of assuring the agricultural sector of adequate supplies of fertilizer and pesticide at reasonable prices, rationalizing the manufacture and marketing of fertilizer, protecting the public from the risks inherent in the use of pesticides, and educating the agricultural sector in the use of these inputs.

SECTION 2. *Abolition of the Fertilizer Industry Authority.* The Fertilizer Industry Authority created under Presidential Decree No. 135, dated 22 February 1973, as amended by Presidential Decree 517 and 669, dated 19 July 1974 and 11 March 1975 respectively, is hereby abolished.

The FPA shall assume such appropriations, assets and liabilities and hire such personnel of the FIA as may be determined by its Board of Directors; *Provided, that such assumption is made within sixty (60) days from the effectivity of this decree.*

SECTION 3. *Definitions.* For the purpose hereof, the terms herein below shall be understood to mean as follows:

- a. "Pesticide" — any substance or product, or mixture thereof, including active ingredients, adjuvants and pesticide formulations, intended to control, prevent, destroy, repel or mitigate directly or indirectly, any pest. The term shall be understood to include insecticides, fungicide, bactericide, nematocide, herbicide, molluscicide, avicide, rodenticide, plant regulator, defoliant, desiccant and the like.

- b. "Fertilizer" – includes any substance – solid or liquid – or any nutrient element or elements – organic or inorganic – singly or in combination with other materials, applied directly to the soil for the purpose of promoting plant growth, increasing crop yield or improving their quality.
- c. "Other agricultural chemicals" – shall mean chemicals, chemical inputs and chemical compounds not herewith covered by the definition of fertilizer and pesticide but utilized by the agricultural sector.
- d. "Handlers" – shall mean exporters, importers, manufacturers, dealers, repackers, commercial applicators, warehouses, and retailers of fertilizers, fertilizer inputs, pesticides and other agricultural inputs.
- e. "Tolerance Level" – shall mean the maximum amount of pesticides, as determined by the FPA, which may be allowed to remain in any raw agricultural produce at any stage between harvesting and consumption.
- f. "Imminent Hazard" – shall mean a situation which exists when the continued use of a pesticide will likely result in unreasonable adverse effects on the public and/or the environment or will involve unreasonable hazards to the survival of a species declared endangered by the appropriate authorities.

SECTION. 4. *Board of Directors.* The powers and functions of the FPA shall be vested in and exercised by a Board of Directors which shall be composed of the following officials or their representatives:

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| 1. Secretary of Agriculture | Chairman |
| 2. Secretary of Industry | Member |
| 3. Secretary of Finance | Member |
| 4. Secretary of Trade | Member |
| 5. Governor, Central Bank | Member |
| 6. President, Philippine National Bank | Member |
| 7. Director, Bureau of Plant Industry | Member |

- 8. Commissioner, Pollution Control Commission Member
- 9. Administrator, Food and Drug Administration Member

The members of the Board shall elect a Vice-Chairman who shall act as Chairman in case of the absence, inability or temporary incapacity of the Chairman.

SECTION 5. *Organization.* The FPA is empowered to determine and create its organizational structure in order to achieve its objectives, including the number, positions and salaries of its officers and employees.

The Board is empowered to create the positions of Administrator, Deputy Administrator for Fertilizer, Deputy Administrator for Pesticides, and other subordinate officials as may be required.

The Board shall appoint all the officers of the FPA, establish a compensation scheme including allowances and benefits, working hours and such other conditions of employment as it may deem proper, discipline and/or remove for cause, and exercise such other powers over its personnel as may be necessary for the efficient operation of the FPA.

SECTION. 6. *Powers and Functions.* The FPA shall have jurisdiction, on over all existing handlers of pesticides, fertilizers and other agricultural chemical inputs. The FPA shall have the following powers and functions:

- 1. *Common to Fertilizers, Pesticides, and other Agricultural Chemicals*
 - 1. To conduct an information campaign regarding the safe and effective use of these products;
 - 2. To promote and coordinate all fertilizer and pesticides research in cooperation with the Philippine Council for Agriculture and Resources Research and other appropriate agencies to ensure scientific pest control in the public interest, safety in the use and handling of pesticides, higher standards and quality of products and better application methods;

3. To call upon any department, bureau, office, agency or instrumentality of the government, including government-owned or controlled corporations, or any officer or employee thereof and on the private sector, for such information or assistance as it may need in the exercise of its powers and in the performance of its functions and duties;
4. To promulgate rules and regulations for the registration and licensing of handlers of these products, collect fees pertaining hereto, as well as the renewal, suspension, revocation, or cancellation of such registration or licenses and such other rules and regulations as may be necessary to implement this Decree;
5. To establish and impose appropriate penalties on handlers of these products for violations of any rules and regulations established by the FPA;
6. To institute proceedings against any person violating any provisions of this Decree and/or such rules and regulations as may be promulgated to implement the provision of this Decree after due notice and hearing;
7. To delegate selected privileges, powers or authority as may be allowed by law to corporations, cooperatives, associations or individuals as may presently exist or be organized to assist the FPA in carrying out its functions, and;
8. To do any and all acts not contrary to law or existing decrees and regulations as may be necessary to carry out the functions of the FPA.

II. Fertilizers

1. To make a continuous assessment of the fertilizer supply and demand situation, both domestic and worldwide;
2. To establish and enforce sales quotas, production schedules, distribution areas and such other marketing regulations as may be necessary to assure market stability and viable operations in the industry;

3. To determine and set the volume and prices both wholesale and retail, of fertilizer and fertilizer inputs;
4. To establish and implement regulations governing the import and export of fertilizer and fertilizer inputs, and when necessary, to itself import and/or export such items, including the negotiating and contracting of such imports and exports;
5. To import fertilizer and fertilizer inputs exempt from customs duties, compensating and sales taxes, and all other taxes, and to purchase naphtha locally free from specific taxes and the corresponding duty on the imported crude, and to sell or convey such fertilizer or fertilizer input to any individual association, or corporation likewise exempt from the payment of customs duties and all other taxes;
6. To control and regulate all marketing companies, whether importer, indenter, wholesaler or retailer, by controlling and regulating prices, terms, mark-ups, distribution channels, promotion, storage and other marketing factors in the domestic fertilizer market;
7. To regulate and control quality of the different grades of fertilizer and to set new grades when necessary;
8. To control and regulate all aspects of domestic fertilizer production, including the utilization of idle capacity and the orderly expansion of the industry and to compel the utilization of unused or underutilized capacities of fertilizer companies and to direct any improvements, modifications or repairs as may be necessary to accomplish this;
9. To approve or to reject the establishment of new fertilizer or fertilizer input plants and the expansion or contraction of existing capacities;
10. To obtain complete access to all pertinent information on the operations of the industry, including audited and/or unaudited financial statements, marketing, production, and inventory data;
11. To control and assist in the financing of the importation of fertilizer and fertilizer inputs of production,

of inventory and working capital, and of the expansion of the industry;

12. To do all such things as may be necessary to maintain an adequate supply of fertilizers to the domestic market at reasonable prices while maintaining the long term viability of the industry.

III. Pesticides and Other Agricultural Chemicals

1. To determine specific uses or manners of use for each pesticide or pesticide formulation;
2. To establish and enforce tolerance levels and good agricultural practices for use of pesticides in raw agricultural commodities;
3. To restrict or ban the use of any pesticide or the formulation of certain pesticides in specific areas or during certain periods upon evidence that the pesticide is an imminent hazard, has caused, or is causing widespread serious damage to crops, fish or livestock, or to public health and environment.
4. To prevent the importation of agricultural commodities containing pesticide residues above the accepted tolerance levels and to regulate the exportation of agricultural products containing pesticide residue above accepted tolerance levels;
5. To inspect the establishment and premises of pesticide handlers to insure that industrial health and safety rules and anti-pollution regulations are followed;
6. To enter and inspect farmers' fields to ensure that the recommended pesticides are used in specific crops in accordance with good agricultural practice;
7. To require if and when necessary, of every handler of these products, the submission to the FPA of a report stating the quantity, value of each kind of product exported, imported, manufactured, produced, formulated, repacked, stored, delivered, distributed, or sold;
8. Should there be any extraordinary and unreasonable increases in price, or a severe shortage in supply of pes-

ticides, or imminent dangers or either occurrences, the FPA is empowered to impose such controls as may be necessary in the public interest, including but not limited to such restrictions and controls as the imposition of price ceilings, controls on inventories, distribution, and transport, and tax-free importations of such pesticides or raw materials thereof as may be in short supply.

SECTION 7. Power to Issue Rules and Regulations To Implement Decree. The FPA is hereby authorized to issue or promulgate rules and regulations to implement, and carry out the purposes and provisions of this Decree.

SECTION 8. Prohibition Governing Sale and Use of Fertilizers and Pesticides. It shall be unlawful for any holder of pesticides, fertilizer, and other agricultural chemicals or for any farmer, planter or end-user of the same as the case may be:

- a) To engage in any form of production, importation, distribution, storage, and sale in commercial quantities without securing from the FPA a license therefor;
- b) To use any pesticide or pesticide formulation on crops, livestock, and the environment in a manner contrary to good agricultural practices as hereinabove defined;
- c) To deal in pesticides and/or fertilizers which have not been previously registered with FPA, or which registration has expired or has been suspended or revoked;
- d) To adulterate pesticides formulation and fertilizer grade;
- e) To impose as a condition for the purchase of fertilizer, the simultaneous purchase of pesticide or other agricultural chemical inputs and vice-versa;
- f) To mislabel or make claims which differ in substance from the representation made in connection with a product's registration or from its actual effectiveness; and
- g) To violate such other rules and regulations as may be promulgated by FPA.

SECTION 9. Registration and Licensing. No pesticides, fertilizers, or other agricultural chemical shall be exported, imported, manufactured, formulated, stored, distributed, sold

or offered for sale, transported, delivered for transportation or used unless it has been duly registered with the FPA or covered by a numbered provisional permit issued by FPA for use in accordance with the conditions as stipulated in the permit. Separate registrations shall be required for each active ingredient and its possible formulations in the case of pesticides or for each fertilizer grade in the case of fertilizer.

No person shall engage in the business of exporting, importing, manufacturing, formulating, distributing, supplying, repacking, storing, commercially applying, selling, marketing, of any pesticides, fertilizer and other agricultural chemicals except under a license issued by the FPA.

The FPA, in the pursuit of its duties and functions, may suspend, revoke, or modify the registration of any pesticide, fertilizer and other agricultural chemicals after due notice and hearing.

SECTION 10. Penalties

a) Fertilizer - Any person who violates any of the provisions of this Decree or any of the provisions of the rules and regulations issued or promulgated by the FPA on fertilizer shall be punished by imprisonment of not less than 15 years and 1 day or more than 20 years if the amount involved is more than P50,000.00; by imprisonment of not less than 10 years and 1 day or more than 15 years if the amount involved is P10,000.00 or less, as well as a fine ranging from an amount equal to the value involved to three times such value but which shall in no case be less than P5,000.00 nor more than P20,000.00; by a fine of P5,000.00 but not more than P10,000.00 by other violations where the amount involved cannot be determined; provided, that if falsification of a public or commercial document is committed by reasons or on the occasion of the commission of any of the acts punishable herein, the offender shall be imposed the maximum fine and term of imprisonment as above prescribed. If the violation is committed by a corporation, firm, partnership, cooperative, association or any other entity, the penalty shall be imposed upon the guilty office or offices and such corporation, firm, partnership, association or entity.

b) Pesticides - Any person who violates any of the provisions of this Decree or any of the provisions of the rules and regulations issued or promulgated by FPA on pesticide, shall be liable to a penal servitude of not in excess of one year or a fine of P5,000.00 but not more than P10,000.00 provided that if the violation is committed by a corporation, firm, partnership, cooperative, association or any other entity, the penalty shall be imposed upon the guilty officials or officers of such entities.

SECTION 11. Appropriation. The sum of One Million and Two Hundred Thousand (P1.2 Million) Pesos shall, in addition to what has been appropriated for the Fertilizer Industry Authority for the Calendar Year 1977, be released out of any funds in the National Treasury not otherwise appropriated. For every calendar year thereafter, such sums as may be necessary for the operations of the FPA shall be included in the General Appropriations Decree.

Any provision of existing law to the contrary notwithstanding, the FPA may impose fees or receive grants, subsidies, donations, or contributions from any entity and retain such funds for its operation.

SECTION 12. Life of FPA. The FPA shall constitute itself immediately and shall continue to exist until and unless abolished by the President of the Philippines.

SECTION 13. Separability Clause. The provisions of this Decree are hereby declared to be separable, and in the event any one or more of such provisions are held unconstitutional, the validity of other provisions shall not be affected.

SECTION 14. Repealing Clause. All laws, decrees, acts, executive orders, ordinances, rules and regulations which are inconsistent with the provisions of the Presidential Decree are hereby repealed, amended or modified accordingly.

SECTION 15. Effectivity. This Decree shall take effect upon approval.

Done in the City of Manila, this 30th day of May, in the year of our Lord nineteen hundred and seventy-seven.

(SGD) FERDINAND E. MARCOS