

Presidential Decree 1144: Regulating the Fertilizer and Pesticide Industry in the Philippines¹

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Background

In 1972-1973, the Philippines encountered significant decline in rice production due to typhoons and shortage of fertilizers spawned by the oil crisis. This prompted the government to directly intervene in the operations of the fertilizers industry in the country. On February 13, 1973, Presidential Decree No. 135 was promulgated creating the Fertilizer Industry Authority (FIA). By virtue of this law, the government completely changed its policy of non-intervention to one of rigid and all encompassing control over the fertilizer industry. FIA power was so broad since its jurisdiction included control over prices, mark-up, distribution channels, promotion, import, export and production of fertilizers. The same law likewise empowered FIA to enter into contracts for purposes of exporting or importing fertilizer. One of the most significant provisions of the law, however, was the mandate of outright tax exemption for the importation of all kinds of fertilizers.

However, achieving improvement in food production requires the combined effects of two vital agricultural inputs, namely fertilizer and pesticide. These industries have much in common in terms of clientele and stakeholders, distribution of channels, farmers' system of application in the field, and technical supervision under government programs. Hence, Presidential Decree No. 1144 was promulgated creating the Fertilizer and Pesticide Authority (FPA) and abolishing the FIA.

Presidential Decree 1144

PD 1144 merged the fertilizer and pesticide industries and placed them under the jurisdiction of a single government agency. The law adopted and retained the broad power provided for under PD 135 on fertilizer regulation and control on the farm input. The law has the provisions on (a) abolition of the Fertilizer Industry Authority; (b) organization; (c) power and functions; (d) prohibitions governing sale and use of fertilizers and pesticides; (e) registration and licensing; and (f) penalties.

¹ A short policy paper submitted to the Food and Fertilizer Technology Center (FFTC) for the project titled "Asia-Pacific Information Platform in Agricultural Policy". Short policy papers, as corollary outputs of the project, describe pertinent Philippine laws and regulations on agriculture, fisheries and natural resources.

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The Fertilizer and Pesticide Authority. The creation of FPA aims to address (1) the need for an agency to regulate fertilizer importation, manufacture, formulation, distribution, delivery, sale, transport and storage as well as pesticide labeling, distribution, storage, transportation, use and disposal; and (2) the need to create a technically oriented government authority equipped with the required expertise to regulate, control, and develop the fertilizer and pesticide industries.

The FPA has the following functions: (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; (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 function and duties; (4) to promulgate rules and regulations for the registration and licensing of handlers of these products, collect fees pertaining thereto, 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; (7) to delegate such privileges, powers or authority as maybe allowed by law to corporation, 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 FPA³.

Specifically on fertilizer, FPA shall make a continuous assessment of the fertilizer supply and demand situations, both domestic and worldwide; regulate and control quality of the different grades of fertilizer and to set new grades when necessary; and approve or reject the establishment of new fertilizer of fertilizer inputs plants and the expansion or contraction of existing capacities. For pesticides and other agricultural chemicals, FPA shall determine specific uses and manners of use of each pesticide and pesticide formulation; establish and enforce tolerance levels; to restrict or ban the use of pesticides found to be hazardous; to inspect establishment of handlers and farmers' fields; and impose restrictions and controls in cases of extraordinary and unreasonable increases in prices.

Prohibitions Governing Sale and Use of Fertilizers and Pesticides. PD 1144 provides rules to prevent the unlawful sale and use of fertilizers, pesticides and other agricultural chemicals. The law prohibits: (1) the production, importation, distribution, storage, and sale in commercial quantities without the issuance of license from FPA; (2) the use of pesticide or pesticide formulation contrary to good agricultural practices; (3) the dealing of pesticides and/or fertilizers not FPA registered or which registration has expired; (4) the adulteration of fertilizer grade; (5) the imposition of condition for the simultaneous purchase of fertilizer, pesticide and other chemicals; and (6) to mislabel or provide claims which differ in substance from the product.

Registration and Licensing. The law indicates that no pesticides, fertilizer, 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 is has been duly

³ Lifted verbatim from Section 6. Powers and Functions. PD No. 1144

registered with the FPA. There should be separate registrations for each active ingredient and its possible formulations in the case of pesticides or for each fertilizer grade in the case of fertilizer.

FPA shall issue license to a person prior to engagement in business on exporting, importing, manufacturing, formulating, distributing, supplying, repacking, storing, commercially applying, selling, marketing, of any pesticides, fertilizer and other agricultural chemicals. The FPA, in the pursuit of its duties and functions, has the power to suspend, revoke, or modify the registration of any pesticide, fertilizer and other agricultural chemicals after due notice and hearing.

Penalties. PD 1144 penalizes any individual, corporation, firm, partnership, cooperative, association or any entity that violates any of its provision. Penalties for the infringement of the rules and regulations related to fertilizers is punishable by imprisonment as well as fine equal to or three times the amount involved. The length of imprisonment time depends on the amount involved but can take more than 20 years. Pesticide-related violations are liable to a penal servitude of not in excess of one year or a fine.

Conclusion

It is the policy of the state to provide adequate assistance to the agricultural sector in achieving the national objective of increasing and sustaining food production. Fertilizer and pesticide are recognized as vital inputs in attaining this societal goal. Through adequate law in place, the supply, prices, and safety of use of these important agricultural inputs can be regulated and monitored.

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