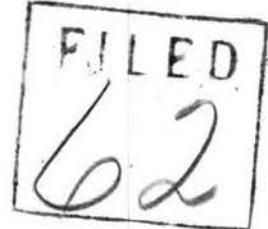


FERTILIZER LAWS: Agriculture Experiment Station must  
label or tag each separate parcel of  
AGRICULTURE: "Vigoro" before it may be exposed  
for sale.

June 16th, 1939.



Professor M. F. Miller,  
Dean and Director,  
College of Agriculture,  
Experiment Station-Extension Service,  
University of Missouri,  
Columbia, Missouri.

Dear Sir:

We acknowledge receipt of your inquiry  
which reads as follows:

"I feel that it is necessary  
for us to have a ruling from the  
Attorney General with reference  
to a certain interpretation  
regarding the Fertilizer Law,  
a copy of which I am enclosing.  
The law requires that each bag  
or package shall bear a tag or  
sticker indicating that it has  
been registered.

"The case in question has to do  
with packages such as the one I  
am sending you under separate  
cover including various small  
packets of Vigoro fertilizer  
tablets put out by Swift & Com-  
pany. The law might be inter-  
preted to mean that each one  
of these small packets should  
bear a tag or sticker or that  
the larger package only should  
be tagged. You will observe

that the Company has placed the sticker on the larger package.

"Since this package is really a sales device to be kept on the counter of the merchant with the registration sticker showing, the question arises as to whether or not this one sticker is sufficient. I might say that this has some relation to the plan followed by some dealers in selling small amounts of fertilizer for yard and garden purposes, as is sometimes done.

"In this case the bag bears the label and the small packages which they measure out are of course not labeled. It would be almost impossible to administer a provision which would require labeling of these smaller bags as the material is measured out. However, these packets of Vigoro could each be labeled if it is your opinion that the law would require it."

Section 12588, Revised Statutes of Missouri, 1929, provides:

"Any commercial fertilizer or material to be used as a fertilizer, the selling price of which exceeds five dollars per ton, shall have stamped or affixed to each package of such fertilizer in a conspicuous place on the outside thereof, by the manufacturer, importer, corporation, company or person who sells or causes the same to be sold, offered or exposed for

sale, a plainly printed statement which shall certify as follows:

- (1) The name, brand or trademark under which the fertilizer is sold.
- (2) The name or address of the manufacturer of the fertilizer.
- (3) The guaranteed chemical composition of the fertilizer in the following terms: (a) Per centum of nitrogen: (b) per centum of available phosphoric acid, and in the case of an undissolved animal bone, the per centum of insoluble phosphoric acid; (c) per centum of potash soluble in distilled water. In case the composition is expressed in equivalent to ammonia, etc., in addition to the above it shall be clearly and unequivocally shown that such terms are used merely as equivalents and not used to represent additional plant food."

Section 12589, Revised Statutes of Missouri, 1929, provides that before such commercial fertilizer is sold or offered for sale in Missouri, the person who sells or causes the same to be sold, offered or exposed, shall annually register with your department a statement setting forth the chemical, or trademark under which it is sold and the name and address of the manufacturer.

Section 12591, Revised Statutes of Missouri, 1929, provides, among other things, the following:

"Every person, corporation or company who shall sell, offer or expose for sale in this state any commercial fertilizer, the selling price of which exceeds five dollars per ton, shall stamp or affix to each package of such fertilizer in a conspicuous place on the outside thereof, a plainly printed statement which shall recite and certify in effect and form the matters and things required to be set forth in the registered statement described in section 12589. If any such fertilizer is sold, offered, or exposed for sale in bulk, such printed statement shall accompany every lot and parcel sold, offered or exposed for sale. Every person, corporation or company selling or exposing for sale such fertilizer shall, in addition to said printed statement, attach to every package or quantity of such fertilizer sold or exposed for sale in a conspicuous place on the outside of said package a label or tag furnished by said experiment station showing such brand of commercial fertilizer has been registered at said experiment station for that year."

You forwarded to this office along with your request an exhibit in the form of a paper carton approximately fourteen (14) inches long, six (6) inches wide and four (4) inches high. Said carton having the picture of a girl looking at a flower and having the name in large red letters "VIGORO", the name "COMPLETE PLANT FOOD", and immediately under that, in large red letters, the word "TABLETS". In the right hand corner of the top part of

said carton the price of ten (10¢) cents per package of twenty-four. In said carton is enclosed thirty smaller cartons which completely fill the larger carton, said smaller cartons each being approximately four inches long, two inches wide and something like an inch thick. Each of said smaller cartons contain a quantity of tablets and reading matter.

On the outside of said smaller package are the words "VIGORO" "TABLETS" and other advertisements, and directions how to use the same, and under the latter is the name of "SWIFT & COMPANY FERTILIZER WORKS, a Division of Swift & Company." On one end of each of said small packages is the name "VIGORO" and the following:

"These special tablets are products of Swift & Company, makers of Vigoro, America's largest selling plant food for lawns and gardens. For outside use, Vigoro is available in sizes ranging from 1 to 100 pounds. Use it on lawns, flowers, trees, shrubs and vegetable tables."

On the other side of each of said small packages is printed the word "VIGORO, complete plant food", and the following:

"Vigoro - 24 25-grain tablets.  
Guaranteed Analysis: Nitrogen 4.00%, Available Phosphoric Acid 12.00%, Potash  $K_2O$  (soluble in water) 4.00%. Manufactured by Swift & Company Fertilizer Works, Div. of Swift & Company, Calumet City, Ill.; Cleveland, Ohio; National Stock Yards, Ill.; Baltimore, Md."

On one end of each of said small packages is printed the words "Vigoro, Complete Plant Food, A product of Swift & Company, contains 24 25-grain tablets." On the other end of each of said smaller packages is the following:

"This package was taken from an original package, which met all requirements of fertilizer laws, including the manufacturer's name, guarantee and payment of privilege tax."

Each of said smaller cartons has stamped or affixed on it the printed statement reciting the name, brand or trade mark of the fertilizer, the name and address of the manufacturer thereof and the chemical composition of the fertilizer, and it is apparently in conformity with Section 12588, supra.

It is evident that this fertilizer has a selling price which exceeds five dollars per ton and, therefore, comes within the requirements of the fertilizer law. Your inquiry seems to be directed more particularly to the latter part of said Section 12591, supra. That section provides that if the fertilizer is offered for sale in bulk, such printed statement shall accompany each lot and parcel offered for sale. But this last mentioned provision apparently does not affect your inquiry because the fertilizer you inquire about does not appear to be offered for sale in bulk, but is offered for sale in each of these small cartons.

Said Section 12591, supra, next provides that every person, etc., selling or exposing for sale

"\* \* \* \* such fertilizer shall, in addition to said printed statement, attach to every package or quantity of such fertilizer sold or exposed for sale in a conspicuous place on the outside of said package a label or tag furnished by said experiment station showing such brand of commercial fertilizer has been registered at said experiment station for that year."

It is noted the last quoted part of said section contemplates that the printed statement hereinabove set forth on each of the individual small packages shall be shown thereon and in addition to the same, there shall be placed "in a conspicuous place on the outside of said packages a label or tag furnished by said experiment station showing such brand of commercial fertilizer has been registered at said experiment station for that year."

If the last quoted provision of Section 12591, supra, applies to the small cartons, then the fact that each small carton has printed thereon the following:

"This package was taken from an original package, which met all requirements of fertilizer laws, including the manufacturer's name, guarantee, and payment of privilege tax,"

is not a compliance with said statute.

Each of said small cartons must have "a label or tag furnished by said experiment station." The last above referred to matter does not appear to be furnished by the experiment station but is merely printed on each of said small cartons and apparently done by the person preparing the small carton and the contents thereof.

Section 12591, supra, contemplates that more than that shall be done, and that a label or tag furnished by the experiment station showing that such brand of commercial fertilizer has been registered at the experiment station for that year, shall be attached to each of the smaller cartons above mentioned.

Very truly yours,

APPROVED:

J. E. TAYLOR  
(Acting) Attorney General

DRAKE WATSON  
Assistant Attorney General.