

FERTILIZER \* - State Fertilizer Law does not apply; fertilizer used in Missouri by U. S. Dept. of Agriculture not offered for sale.

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November 22, 1935

11-25



Honorable F. B. Mumford  
Dean and Director  
College of Agriculture  
University of Missouri  
Columbia, Missouri

Dear Sir:

Your request of November 11, 1935 for an opinion has been referred to me. Your request is as follows:

"The Soil Conservation Service of the United States Department of Agriculture shipped into Missouri 200 tons of commercial fertilizer during the season of 1935. This fertilizer was not registered or labeled in accordance with the Missouri fertilizer law. It is the contention of the officers of the United States Department of Agriculture that 'the fertilizer after becoming the property of the U S D A was not subject to any local or State regulations'.

"I am writing to request your opinion on the following points:

1. Does the Missouri fertilizer law apply to goods purchased by the U. S. Department of Agriculture and shipped into the State for use in connection with the Soil Conservation program?
2. Does the Director of the Agricultural Experiment Station have

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the authority to exempt these fertilizers from the provisions of the law on the grounds that the materials are used for demonstrational or educational purposes by the Soil Conservation Service of the Federal government?

If your ruling on the second question is in the affirmative it is my present intention to exempt these fertilizers from the provisions of the Missouri law."

From your communication, we assume that the fertilizer was used by the United States Department of Agriculture, and was not sold or offered for sale in Missouri. A reference to Article 14 of Chapter 87, R. S. Mo. 1929, and in particular to Sections 12588, 12589, 12591 and 12595, at once reveals that commercial fertilizer must be sold or offered for sale in this state at a price of more than \$5.00 per ton before it comes within the provisions of the fertilizer law requiring labeling and registering.

Section 12591, R. S. Mo. 1929 in part provides:

"Every person, \* 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 \* the matters and things required \* in section 12589. \* Every person, \* selling or exposing for sale such fertilizer shall, \* attach to every package \* sold or exposed for sale \* a label or tag \* \* "

The printed matter referred to in Section 12589, R. S. Mo. 1929 relates to the name, address and manufacturer, chemical composition, etc. The label or tag referred to is acquired by the payment of fees set out in Section 12592, R. S. Mo. 1929, which section in part provides:

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"Every manufacturer, importer or person shall pay to said experiment station for the labels or tags re-quired by them under section 12591 \* "

The only tags required under Section 12591, R. S. Mo. 1929 is where the fertilizer is sold or offered for sale in this state. Under the facts stated in your letter, we understand that the United States Department of Agriculture ships into Missouri a fertilizer to be used by it in carrying out the functions of certain governmental projects in this state.

It is, therefore, the opinion of this office that such fertilizer, shipped into this state as a property of the United States Department of Agriculture and used by it in soil conservation work, is not subject to the Missouri fertilizer law.

Yours very truly,

FRANKLIN E. REAGAN  
Assistant attorney General

APPROVED:

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JOHN W. HOFFMAN, Jr.  
(Acting) Attorney General

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