

ECONOMIC POISONS:
DEPARTMENT OF
AGRICULTURE:

Products for eliminating internal worms from hogs, poultry, or other animals are not subject to registration under the Missouri Economic Poisons Act. All 100% paradichlorobenzine or 100% naphthalene products of a company, all of which bear the same or a portion of the same claims, can be registered as one economic poison under the Missouri Economic Poisons Act, and only one registration fee has to be paid thereon.



January 29, 1957

Mr. Julius R. Anderson
State Entomologist
Department of Agriculture
Jefferson City, Missouri

Dear Mr. Anderson:

This is in answer to your opinion request to this office dated October 30, 1956, and reads as follows:

"We would like to have an opinion in regard to two subjects being registered under the Missouri Economic Poisons Law. (Section 263.270-263.380).

"1. Should products used for eliminating internal worms from hogs, poultry or other animals be included under Economic Poison registrations? These worms are not insects as defined under Section 263.270 (7).

"2. Should products containing 100% paradichlorobenzine or 100% naphthalene (generally used for clothes moth control) when sold by a company in various shapes and forms and names be allowed to be registered as one product and subject to only one fee, ie all 100% paradichlorobenzine products of a company as one registration and all 100% naphthalene products of that company as one registration?"

I.

The worms referred to in the first question in your opinion request are called nematodes and are defined by Webster's Unabridged dictionary, Second Edition, as a class of worms of the phylum nemathelminthes and sometimes called nemas.

Section 263.270, paragraph 1, Cum. Supp. 1955, which defines an economic poison, reads as follows:

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"(1) The term 'economic poison' means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the commissioner, after a hearing, shall declare to be a pest;"

Nematodes are not rodents, nor are they a form of fungi or weed, and as stated in your opinion request, neither are they insects within the definition stated in Section 263.270, paragraph 7, Cum. Supp. 1955. Also, they are not a form of animal or plant life which the commissioner, after a hearing, has declared to be a pest.

The Federal Government, in construing its own economic poison act in the Code of Federal Regulations, Title 7, Agriculture, Chapter 3, at Section 362.101, paragraph (g), stated that:

"The following products concerning which questions have been raised are not economic poisons within the meaning of the act:

* * * * *

"(7) Preparations intended for nemas * * *."

Therefore, it is the opinion of this office that products used for eliminating internal worms, commonly called nematodes, from hogs, poultry or other animals, need not be registered under the Missouri Economic Poisons Act, as such products are not economic poisons within the definition of an economic poison stated in Section 263.270, paragraph 1, supra.

II.

As for your second question, with regard to the registration of several products under one economic poison registration when the products all contain 100% paradichlorobenzene or 100% naphthalene, although sold in separate shapes and forms and under several brand names, we find that the registration of economic poisons is provided for under Section 263.300, Cum. Supp. 1955, paragraph 1 of which reads as follows:

"(1) * * * provided that products which have the same formula, are manufactured by the same person, the labeling of which contains the same or a portion of the same

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claims, and if information concerning such products is previously given to the commissioner identifying the product as the same economic poison, such products may be registered as a single economic poison; and additional names and labels shall be added by supplement statements during the current period of registration."

Under this section, in order to have one economic poison registration cover several products: (1) the products must have the same formula; (2) the products must be manufactured by the same person; (3) the labeling of the products must contain the same or a portion of the same claims; and (4) information concerning such products must have been previously given to the Commissioner identifying the products as the same economic poison.

As for the first requirement for multiple registration and the registration of products containing 100% paradichlorobenzine or 100% naphthalene as one economic poison, we find, from the labels that you have given us, that all the products are either composed of 100% paradichlorobenzine or 100% naphthalene, with the exception of the "Scram Rose Moth Cakes" and the "Zorex Moth Killer," which are 99 1/2% naphthalene and 1/2% perfume. All of the other products composed of 100% paradichlorobenzine or 100% naphthalene can be registered as one economic poison, but the last two products cannot be included with the other products since they do not have the same formula. Since each of them have the same formula, they may be registered together as one economic poison, but they may not be registered with the other products which are 100% naphthalene.

As to the second requirement for multiple registration, all the products of 100% paradichlorobenzine or 100% naphthalene are manufactured by the same person, the Fred J. Curran Co., Downers Grove, Illinois.

As to the third requirement, the labels of the products composed of 100% paradichlorobenzine or 100% naphthalene all contain the same or a portion of the same claims, the basic claim of which is the killing of moths.

As to the fourth requirement, information concerning such products has been previously given to the commissioner identifying the products as one economic poison.

From comparing the facts which you have presented us with to the requirements of the statute for multiple registration of products as one economic poison, we find that all products of 100%

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paradichlorobenzine or 100% naphthalene, which are manufactured by the same person, the labeling of which contains the same or a portion of the same claims, and concerning which certain information has been presented to the commissioner, can be registered as one economic poison and is thereby subject only to one registration fee. The names under or the forms or shapes in which the products are sold have no effect on their registration as one economic poison.

CONCLUSION

It is the opinion of this office that products for eliminating internal worms from hogs, poultry, or other animals are not subject to registration under the Missouri Economic Poison Act.

It is also the opinion of this office that all 100% paradichlorobenzine or 100% naphthalene products of a company, all of which bear the same or a portion of the same claims, can be registered as one economic poison under the Missouri Economic Poisons Act, and only one registration fee has to be paid thereon.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Richard W. Dahms.

Yours very truly,

JOHN M. DALTON
Attorney General

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