

Hearing judge upholds decision to deny Agrispon's label

BY CURT HARLER
HARRISBURG — A state hearing examiner has upheld the Pennsylvania Department of Agriculture's decision not to grant a label for Agrispon soil additive.

The Department announced a final decision to deny registration to Agrispon under the Pennsylvania Fertilizer, Soil Conditioner, and Plant Growth Substance Law of 1977. Pennsylvania Agriculture Secretary

Penrose Hallowell ordered Sn Corp, Inc., and J&J Agri-Products, the manufacturer and distributor of the product to stop sale of Agrispon within 30 days.

Jane Alexander, local distributor of Agrispon through J&J Agri-Products, Dillsburg, said the decision only shows the State of Pennsylvania is behind the times.

She said she expects Sn Corp., the Dallas-based manufacturer of Agrispon,

to join J&J in appealing the decision through the Commonwealth Courts.

"In other cases where Sn Corp has appealed they have won," she said. She added that as long as the firm has an appeal pending in the court system, the State can not issue a stop sale order.

The Agriculture Secretary said his decision was based on a complete review of evidence and on the Findings of Fact and Conclusions of Law recommended by Joseph Klein, a Harrisburg attorney.

Klein served as hearing examiner during four days of hearings held in November and December 1979.

Hallowell also denied a request for registration of Agrispon under an amended application filed by Sn Corp and J&J on November 13, 1979.

Hallowell said the original

application for registration included 26 product claims.

"Sn Corp and J&J failed to offer any proof on 24 separate claims in evidence presented with the application, during the hearing, or in independent testing of the product at Penn State," he said.

The hearing examiner concluded that the applicants failed to establish that Agrispon "increases the nitrogen in the soil, or even enhances the generation of nitrogen."

Hallowell's final order on the application gives Sn Corp and J&J 30 days notice in which to stop sale or to follow the decision by appeal to Commonwealth Court.

Alexander said the hearing process "is a beautiful way to defeat the little guy J&J alone never could afford the expense of the hearings," she said.

Sn Corp estimated the cost of the Harrisburg hearings

at \$30,000, including the expense of bringing in expert witnesses from around the country.

The amended application, which Hallowell denied Thursday, was filed at the onset of the administrative hearing last fall.

This application made only two claims: that Agrispon enhances the generation of Nitrogen; and that Agrispon is non-toxic.

Sn Corp, J&J, and the Agriculture Department had agreed that evidence and testimony received in the hearing would be applied toward consideration of the amended application as well as the original application.

Hallowell said he had reviewed the recommendation of the hearing examiner and data submitted after the hearing was closed, and found no

evidence to substantiate the claims.

Alexander said Sn Corp and J&J had submitted additional material to the hearing examiner. "Every additional piece of data we get makes our case more appealable," she said.

Several Penn State researchers and extension personnel have called Agrispon "snake oil" or "nothing more than water and some algae."

To date, 105 products have been registered as soil conditioners or plant growth substances. Orders have been issued to stop sale of 21 other products.

Eight products, including Agrispon, have been denied registration and received administrative hearings. After a final order of denial, four companies have been ordered to stop sales. Final decisions still are pending on four other applications.

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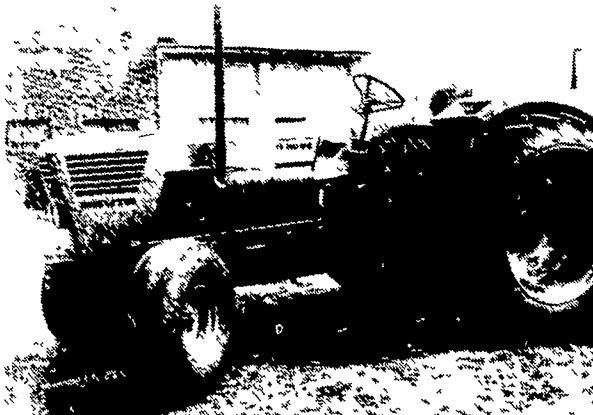
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