

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Agriculture and Forestry to which was referred Senate
3 Bill No. 102 entitled “An act relating to the regulation of agricultural inputs for
4 farming” respectfully reports that it has considered the same and recommends
5 that the House propose to the Senate that the bill be amended by striking out all
6 after the enacting clause and inserting in lieu thereof the following:

7 * * * Compost Foraging; Farming * * *

8 Sec. 1. 10 V.S.A. § 6001 is amended to read:

9 § 6001. DEFINITIONS

10 ~~In~~ As used in this chapter:

11 * * *

12 (3)(A) “Development” means each of the following:

13 * * *

14 (D) The word “development” does not include:

15 (i) The construction of improvements for farming, logging, or
16 forestry purposes below the elevation of 2,500 feet.

17 * * *

18 (vii) The construction of improvements below the elevation of
19 2,500 feet for the on-site storage, preparation, and sale of compost, provided
20 that one of the following applies:

21 * * *

1 (III) The compost is principally used on the farm where it was
2 produced.

3 * * *

4 (22) “Farming” means:

5 (A) the cultivation or other use of land for growing food, fiber,
6 Christmas trees, maple sap, or horticultural and orchard crops; or

7 (B) the raising, feeding, or management of livestock, poultry, fish, or
8 bees; or

9 (C) the operation of greenhouses; or

10 (D) the production of maple syrup; or

11 (E) the on-site storage, preparation, and sale of agricultural products
12 principally produced on the farm; or

13 (F) the on-site storage, preparation, production, and sale of fuel or
14 power from agricultural products or wastes principally produced on the farm;
15 or

16 (G) the raising, feeding, or management of four or more equines
17 owned or boarded by the farmer, including training, showing, and providing
18 instruction and lessons in riding, training, and the management of equines; or

19 (H) the importation of 2,000 cubic yards per year or less of food
20 residuals or food processing residuals onto a farm for the production of
21 compost, provided that:

1 (i) the compost is principally used on the farm where it is
2 produced; or

3 (ii) the compost is produced on a small farm that raises or
4 manages poultry.

5 * * *

6 (38) “Farm” means, for the purposes of subdivision (22)(H) of this
7 section, a parcel or parcels of land owned, leased, or managed by a person and
8 devoted primarily to farming that meets the threshold criteria as established
9 under the Required Agricultural Practices.

10 (39) “Food processing residuals” means the remaining organic material
11 from a food processing plant and may include whey and other dairy, cheese
12 making, and ice cream residuals or residuals from any food manufacturing
13 process excluding livestock or poultry slaughtering and rendering operations.
14 “Food processing residuals” does not include food residuals from markets,
15 groceries, or restaurants.

16 (40) “Food residuals” has the same meaning as in section 6602 of this
17 title.

18 (41) “Principally used” means, for the purposes of subdivision
19 (3)(D)(vii)(III) and (22)(H) of this section, that more than 50 percent, either by
20 volume or weight, of the compost produced on the farm is physically and

1 permanently incorporated into the native soils on the farm as a soil
2 enhancement and is not removed or sold at any time thereafter.

3 (42) “Small farm” has the same meaning as in 6 V.S.A. § 4871.

4 Sec. 2. Section 2 of the Agency of Agriculture, Food and Markets,
5 Vermont Required Agricultural Practices Rule for the Agricultural
6 Nonpoint Source Pollution Control Program is amended to read:

7 Section 2. Definitions

8 * * *

9 2.16 Farming means:

- 10 (a) the cultivation or other use of land for growing food, fiber, Christmas
11 trees, maple sap, or horticultural, viticultural, and orchard crops; or
12 (b) the raising, feeding, or management of livestock, poultry, fish, or bees;
13 or
14 (c) the operation of greenhouses; or
15 (d) the production of maple syrup; or
16 (e) the on-site storage, preparation, and sale of agricultural products
17 principally produced on the farm; or
18 (f) the on-site storage, preparation, production, and sale of fuel or power
19 from agricultural products or wastes principally produced on the farm; or

1 (g) the raising, feeding, or management of four or more equines owned or
2 boarded by the farmer, including training, showing, and providing instruction
3 and lessons in riding, training, and the management of equines; or

4 (h) the importation of 2,000 cubic yards per year or less of food residuals
5 or food processing residuals onto a farm for the production of compost,
6 provided that:

7 (1) the compost is principally used on the farm where it is produced; or

8 (2) the compost is produced on a small farm that raises or manages
9 poultry.

10 * * *

11 2.44 “Food residual” means source separated and uncontaminated material
12 that is derived from processing or discarding of food and that is recyclable, in a
13 manner consistent with 10 V.S.A. § 6605k. Food residual may include
14 preconsumer and postconsumer food scraps. “Food residual” does not mean
15 meat and meat-related products when the food residuals are composted by a
16 resident on site.

17 2.45 “Principally used” means that more than 50 percent, either by
18 volume or weight, of the compost produced on the farm is physically and
19 permanently incorporated into the native soils on the farm as a soil
20 enhancement and is not removed or sold at any time thereafter.

1 Sec. 3. 6 V.S.A. chapter 218 is added to read:

2 CHAPTER 218. AGRICULTURAL RESIDUALS MANAGEMENT

3 § 5131. PURPOSE

4 The purpose of this chapter is to establish a program for the management of
5 residual wastes generated, imported to, or managed on a farm for farming in
6 Vermont.

7 § 5132. DEFINITIONS

8 As used in this chapter:

9 (1) “Agency” means the Agency of Agriculture, Food and Markets.

10 (2) “Compost” means a stable humus-like material produced by the
11 controlled biological decomposition of organic matter through active
12 management but shall not mean sewage, septage, or materials derived from
13 sewage or septage.

14 (3) “Farm” means a parcel or parcels of land owned, leased, or managed
15 by a person and devoted primarily to farming that meets the threshold criteria
16 for regulation under the Required Agricultural Practices.

17 (4) “Farming” has the same meaning as in 10 V.S.A. § 6001(22).

18 (5) “Food processing residuals” means the remaining organic material
19 from a food processing plant and may include whey and other dairy, cheese
20 making, and ice cream residuals or residuals from any food manufacturing
21 process excluding livestock or poultry slaughtering and rendering operations.

1 “Food processing residuals” do not include food residuals from markets,
2 groceries, or restaurants.

3 (6) “Food residuals” means source separated and uncontaminated
4 material that is derived from processing or discarding of food and that is
5 recyclable or compostable. “Food residuals” may include preconsumer and
6 postconsumer food scraps. “Food residuals” include meat and meat-related
7 products when the disposition of the products is managed on a farm.

8 (7) “Secretary” means the Secretary of Agriculture, Food and Markets.

9 (8) “Source separation” has the same meaning as in 10 V.S.A. § 6602.

10 § 5133. FOOD RESIDUALS; RULEMAKING

11 (a) The Secretary shall regulate the importation of food residuals or food
12 processing residuals onto a farm.

13 (b)(1) The Secretary shall adopt by rule requirements for the management
14 of food residuals and food processing residuals on a farm. The rules may
15 include requirements regarding:

16 (A) the proper composting of food residuals or food processing
17 residuals;

18 (B) destruction of pathogens in food residuals, food processing
19 residuals, or compost;

20 (C) prevention of public health threat from food residuals, food
21 processing residuals, or compost;

1 (D) protection of natural resources or the environment; and

2 (E) prevention of objectionable odors, noise, vectors, or other
3 nuisance conditions.

4 (2) The Secretary may adopt the rules required by this section as part of
5 the Required Agricultural Practices or as independent rules under this chapter.

6 (3) The rules shall prohibit a farm from initiating the production of
7 compost from food residuals or food processing residuals imported onto the
8 farm on or after July 1, 2021 within a downtown, village center, new town
9 center, neighborhood development area, or growth center designated under
10 24 V.S.A. chapter 76a, unless the municipality has expressly allowed
11 composting in the designated area under the municipal zoning or subdivision
12 bylaws or in an approved municipal plan.

13 (4) The rules adopted under this section shall be designed to reduce
14 odor, noise, vectors, and other nuisance conditions on farms and to protect the
15 public health and the environment in a manner that is equal to or better than the
16 rules for compost facilities in the Agency of Natural Resources' Vermont Solid
17 Waste Management Rules, as amended.

18 (c) A farm producing compost under 10 V.S.A. § 6001(22)(H) shall be
19 regulated under this chapter and shall not require a certification or other
20 approval from the Agency of Natural Resources under 10 V.S.A. chapter 159.

1 Sec. 4. 10 V.S.A. § 6605 is amended to read:

2 § 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

3 (a)(1) No person shall construct, substantially alter, or operate any solid
4 waste management facility without first obtaining certification from the
5 Secretary for such facility, site, or activity, except for sludge or septage
6 treatment or storage facilities located within the fenced area of a domestic
7 wastewater treatment plant permitted under chapter 47 of this title. This
8 exemption for sludge or septage treatment or storage facilities shall exist
9 only if:

10 * * *

11 (2) Certification shall be valid for a period not to exceed 10 years.

12 * * *

13 (n) A farm producing compost under subdivision 6001(22)(H) is exempt
14 from the requirements of this section.

15 Sec. 5. 10 V.S.A. § 6605h is amended to read:

16 § 6605h. COMPOSTING REGISTRATION

17 Notwithstanding sections 6605, 6605f, and 6611 of this title, the Secretary
18 may, by rule, authorize a person engaged in the production or management of
19 compost at a small scale composting facility to register with the Secretary
20 instead of obtaining a facility certification under section 6605 or 6605c of this

1 title. This section shall not apply to a farm producing compost under
2 subdivision 6001(22)(H) of this title.

3 Sec. 6. 10 V.S.A. § 6605j is amended to read:

4 § 6605j. ACCEPTED COMPOSTING PRACTICES

5 (a) The Secretary, in consultation with the Secretary of Agriculture, Food
6 and Markets, shall adopt by rule, pursuant to 3 V.S.A. chapter 25, and shall
7 implement and enforce accepted composting practices for the management of
8 composting in the State. These accepted composting practices shall address:

9 (1) standards for the construction, alteration, or operation of a
10 composting facility;

11 (2) standards for facility operation, including acceptable quantities of
12 product or inputs, vector management, odors, noise, traffic, litter control,
13 contaminant management, operator training and qualifications, recordkeeping,
14 and reporting;

15 (3) standards for siting of composting facilities, including siting and
16 operation of compost storage areas, compost bagging areas, and roads and
17 parking areas;

18 (4) standards for the composting process, including rotation,
19 management of compost piles, compost pile size, and monitoring of compost
20 operations;

1 (5) standards for management of runoff from compost facilities,
2 including liquids management from the feedstock area, active composting
3 areas, curing area, and compost storage area; the use of swales or stormwater
4 management around or within a compost facility; vegetative buffer
5 requirements; and run-off management from tipping areas;

6 (6) specified areas of the State unsuitable for the siting of commercial
7 composting that utilizes post-consumer food residuals or animal mortalities,
8 such as designated downtowns, village centers, village growth areas, or areas
9 of existing residential density; and

10 (7) definitions of “small-scale composting facility,” “medium-scale
11 composting facility,” and “de minimis composting exempt from regulation.”

12 (b) A person operating a small scale composting facility ~~or operating a~~
13 ~~composting facility on a farm~~ who follows the accepted composting practices
14 shall not be required to obtain a discharge permit under section 1263 or 1264
15 of this title, a solid waste facility certification under chapter 159 of this title, or
16 an air emissions permit under chapter 23 of this title unless a permit is required
17 by federal law or the Secretary of Natural Resources determines that a permit
18 is necessary to protect public health or the environment.

19 (c) ~~The Secretary of Natural Resources shall coordinate with the Secretary~~
20 ~~of Agriculture, Food and Markets in implementing and enforcing the accepted~~
21 ~~composting practices. The Secretary of Agriculture, Food and Markets and the~~

1 ~~Secretary of Natural Resources may, after opportunity for public review and~~
2 ~~comment, develop a memorandum of understanding for implementation and~~
3 ~~enforcement of the accepted composting practices. [Repealed.]~~

4 (d) The Secretary shall not regulate under this section a farm producing
5 compost under subdivision 6001(22)(H) of this title.

6 Sec. 7. APPLICATION OF SOLID WASTE MANAGEMENT RULES

7 Prior to adoption of rules under 6 V.S.A. § 5133, the Secretary of
8 Agriculture, Food and Markets shall require a person producing compost on a
9 farm under 10 V.S.A. § 6001(22)(H) to comply with Sections 6–1101 through
10 6–1111 of the Agency of Natural Resources’ Vermont Solid Waste
11 Management Rules. After adoption of rules under 6 V.S.A. § 5133, Sections
12 6-1101 through 6-1111 of the Agency of Natural Resources’ Vermont Solid
13 Waste Management Rules shall not apply to a person producing compost on a
14 farm under 10 V.S.A. § 6001(22)(H).

15 Sec. 8. REPORT ON IMPORTATION OF FOOD RESIDUALS FOR

16 FARMING

17 On or before January 15, 2022 and annually thereafter, the Secretary of
18 Agriculture, Food and Markets shall submit to the Senate Committees on
19 Agriculture and on Natural Resources and Energy and the House Committees
20 on Agriculture and Forestry and on Natural Resources, Fish, and Wildlife a

1 report regarding importation of food residuals for composting under 10 V.S.A.

2 § 6001(22)(H). The report shall include:

3 (1) an inventory of the operators of farms that are producing compost
4 under 10 V.S.A. § 6001(22)(H), including the estimated volume of food
5 residuals imported onto farms;

6 (2) a status report on the rulemaking required under 6 V.S.A. § 5133 and
7 any subsequent amendment to those rules;

8 (3) an accounting of any complaints regarding or enforcement actions
9 brought against a farm producing compost under 10 V.S.A. § 6001(22)(H); and

10 (4) any additional information that the Secretary determines is relevant
11 to the administration of compost production under 10 V.S.A. § 6001(22)(H).

12 Sec. 8a. RULEMAKING; IMPLEMENTATION

13 The Secretary of Agriculture, Food and Markets shall initiate the
14 rulemaking required under 6 V.S.A. § 5133 on or before January 1, 2022. The
15 Secretary of Agriculture, Food and Markets shall file under 3 V.S.A. § 841 a
16 final proposal of the rules required under 6 V.S.A. § 5133 on or before
17 January 1, 2023.

18 * * * Dosage Form Animal Health Products; Feed Supplements * * *

19 Sec. 9. 6 V.S.A. chapter 26 is amended to read:

20 CHAPTER 26. COMMERCIAL FEEDS

21 * * *

1 § 323. DEFINITIONS

2 ~~When~~ As used in this chapter:

3 (1) “Dosage form animal health product” means any product intended to
4 affect the structure or function of the animal’s body or enhance or support the
5 health or well-being of livestock, poultry, dogs, cats, or other domestic animals
6 that does not provide nutritional benefit, does not require a prescription from a
7 licensed veterinarian, is not intended for cosmetic purposes, or is exempted by
8 the Secretary by rule. “Dosage form animal health product” shall not include a
9 product regulated by the U.S. Food and Drug Administration as a drug.

10 (2) “Brand name” means any word, name, symbol, or device, or any
11 combination thereof, identifying the commercial feed, feed supplement, dosage
12 form animal health product, or a distributor or registrant and distinguishing it
13 from that of others.

14 ~~(2)~~(3) “Commercial feed” means all materials except whole seeds
15 unmixed or physically altered entire unmixed seeds, when not adulterated
16 within the meaning of subsection 327(a) of this title, ~~which~~ that are distributed
17 for use as feed or for mixing in feed. The Secretary by regulation may exempt
18 from this definition, or from specific provisions of this chapter, commodities
19 such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical
20 compounds or substances when such commodities, compounds, or substances

1 are not intermixed or mixed with other materials; and are not adulterated
2 within the meaning of subsection 327(a) of this title.

3 ~~(3)~~(4) “Customer-formula feed” means commercial feed that consists of
4 a mixture of commercial feeds or feed ingredients each batch of which is
5 manufactured according to the specific instructions of the final purchaser.

6 ~~(4)~~(5) “Distribute” means to offer for sale, sell, exchange, or barter
7 commercial feed, feed supplements, or dosage form animal health products or
8 to supply, furnish, or otherwise provide commercial feed, feed supplements, or
9 dosage form animal health products through any means, including sales
10 outlets, catalogues, the telephone, the Internet, or any electronic means.

11 ~~(5)~~(6) “Distributor” means any person who distributes commercial
12 feeds, feed supplements, or dosage form animal health products.

13 ~~(6)~~(7) “Drug” means any substance intended for use in the diagnosis,
14 cure, mitigation, treatment, or prevention of disease in domestic animals other
15 than humans and substances other than feed intended to affect the structure or
16 any function of the animal body.

17 ~~(7)~~(8) “Feed ingredient” means each of the constituent materials making
18 up a commercial feed.

19 (9) “Feed supplement” means a material used with another to improve
20 the nutritive balance or performance of the total and intended to be fed
21 undiluted as a supplement to other feeds or offered free choice with other parts

1 of the ration separately available or further diluted and mixed to produce a
2 complete feed.

3 ~~(8)~~(10) “Label” means a display of written, printed, or graphic matter
4 upon or affixed to the container in which a commercial feed, feed supplement,
5 or dosage form animal health product is distributed, or on the invoice or
6 delivery slip with which a commercial feed, feed supplement, or dosage form
7 animal health product is distributed.

8 ~~(9)~~(11) “Labeling” means all labels and other written, printed, or
9 graphic matter upon a commercial feed, feed supplement, or dosage form
10 animal health product or any of its containers, or the wrapper accompanying
11 the commercial feed, feed supplement, or dosage form animal health product
12 or advertisements, brochures, posters, electronic media, the Internet, and
13 television and radio announcements used in promoting the sale of the
14 commercial feed, feed supplement, or dosage form animal health product.

15 ~~(10)~~(12) “Manufacture” means to produce, grind, mix, or blend, or
16 further process a commercial feed, feed supplement, or dosage form animal
17 health product for distribution.

18 ~~(11)~~(13) “Mineral feed” means a commercial feed intended to supply
19 primarily mineral elements or inorganic nutrients.

20 ~~(12)~~(14) “Official sample” means a sample of feed taken by the
21 Secretary in accordance with the provisions of subdivision 330(3) of this title.

1 ~~(13)~~(15) “Percent” or “percentages” means percentages by weights.

2 ~~(14)~~(16) “Permitted analytical variances” means those allowances for
3 the inherent variability in sampling and laboratory analysis.

4 ~~(15)~~(17) “Pet” means any domesticated animal normally maintained in
5 or near the household of the owner.

6 ~~(16)~~(18) “Pet food” means any commercial feed prepared and
7 distributed for consumption by pets.

8 ~~(17)~~(19) “Product” means the name of the commercial feed ~~which, feed~~
9 supplement, or dosage form animal health product that identifies it as to kind,
10 class, or specific use.

11 ~~(18)~~(20) “Specialty pet” means any domesticated animal pet normally
12 maintained in a cage or tank.

13 ~~(19)~~(21) “Specialty pet food” means any commercial feed prepared and
14 distributed for consumption by specialty pets.

15 ~~(20)~~(22) “Ton” means a net weight of 2,000 pounds avoirdupois.

16 § 324. REGISTRATION AND FEES

17 (a) No person shall manufacture or distribute a commercial feed, feed
18 supplement, or dosage form animal health product in this State unless that
19 person has first filed with the ~~Vermont~~ Agency of Agriculture, Food and
20 Markets, in a form and manner to be prescribed by rules by the Secretary:

21 (1) the name of the manufacturer or distributor;

- 1 (2) the manufacturer’s or distributor’s place of business;
- 2 (3) the location of each manufacturing or distribution facility; and
- 3 (4) any other information that the Secretary considers to be necessary.

4 (b) A person shall not distribute in this State a commercial feed, feed
5 supplement, or dosage form animal health product that has not been registered
6 pursuant to the provisions of this chapter. Application shall be in a form and
7 manner to be prescribed by rule of the Secretary. The Secretary shall have the
8 authority to determine whether a product subject to an application shall be
9 registered as a commercial feed, feed supplement, or dosage form animal
10 health product.

11 (c)(1) The application for registration of a commercial feed or feed
12 supplement shall be accompanied by a registration fee of \$105.00 per product.
13 The registration fees, along with any surcharges collected under subsection
14 ~~(e)~~(d) of this section, shall be deposited in the special fund created by
15 subsection 364(e) of this title. Funds deposited in this account shall be
16 restricted to implementing and administering the provisions of this title and
17 any other provisions of the law relating to fertilizer, lime, or seeds. If the
18 Secretary so requests, the application for registration shall be accompanied by
19 a label or other printed matter describing the product.

20 (2) The application for registration of a dosage form animal health
21 product shall be accompanied by a registration fee of \$50.00 per product. The

1 registration fees, along with any surcharges collected under subsection (d) of
2 this section, shall be deposited in the special fund created by subsection 364(e)
3 of this title. Funds deposited in this account shall be restricted to
4 implementing and administering the provisions of this title and any other
5 provisions of the law relating to items registered under this chapter. If the
6 Secretary so requests, the application for registration shall be accompanied by
7 a label or other printed matter describing the product.

8 ~~(e)~~(d) No person shall distribute in this State any commercial feed, feed
9 supplement, or dosage form animal health product required to be registered
10 under this chapter upon which the Secretary has placed a withdrawal from
11 distribution order because of nonregistration. A surcharge of \$10.00, in
12 addition to the registration fee required by subsection ~~(b)~~(c) of this section,
13 shall accompany the application for registration of each product upon which a
14 withdrawal from distribution order has been placed for reason of
15 nonregistration, and must be received before removal of the withdrawal from
16 distribution order.

17 ~~(d)~~(e) No person shall distribute a commercial feed product in the State that
18 is labeled as bait or feed for white-tailed deer.

19 § 325. LABELING

20 (a) A commercial feed or feed supplement, except a customer-formula
21 feed, shall be accompanied by a label bearing the following information:

1 (1) the net weight;

2 (2) the product name and the brand name, if any, under which the
3 commercial feed or feed supplement is distributed;

4 (3) the guaranteed analysis as required by rule in section 329 of this
5 title;

6 (4) the common, usual name or collective term of each ingredient used
7 in the manufacture of the commercial feed or feed supplement in descending
8 order;

9 (5) the name and principal mailing address of the manufacturer or the
10 person responsible for distributing the commercial feed or feed supplement;

11 (6) adequate directions for use for all commercial feeds or feed
12 supplements containing drugs and for ~~such~~ other feeds as the Secretary may
13 require by rule as necessary for their safe and effective use; and

14 (7) precautionary statements required to ~~assure~~ ensure the safe and
15 effective use of the commercial feed or feed supplement.

16 (b) A dosage form animal health product shall be accompanied by a label
17 bearing the following information:

18 (1) the net weight or count;

19 (2) the product name and the brand name, if any, under which the
20 dosage form animal health product is distributed;

1 (3) the established name of each active ingredient and the amount of
2 active ingredient per serving in descending order;

3 (4) the established name of each inactive ingredient in alphabetical order
4 or in descending order by predominance of the ingredient;

5 (5) the name, city, and town of the manufacturer or the person
6 responsible for distributing the dosage form animal health product or an e-mail
7 address for the manufacturer or distributor;

8 (6) adequate directions for use of the dosage form animal health
9 product;

10 (7) precautionary statements and warnings required to ensure the safe
11 and effective use of the dosage form animal health product; and

12 (8) structure-function claim stating the intended use of the dosage form
13 animal health product.

14 (c) Customer-formula feed shall be accompanied by a label, invoice,
15 delivery slip, or other shipping document, bearing the following information:

16 (1) name and address of the manufacturer;

17 (2) name and address of the purchaser;

18 (3) date of delivery;

19 (4) the name of each commercial feed and each other ingredient used in
20 the mixture;

1 (5) adequate directions for use for all customer-formula feeds containing
2 drugs and for such other feeds as the Secretary may require by rule to ~~assure~~
3 ensure their safe and effective use;

4 (6) the direction for use and precautionary statements;

5 (7) when a drug-containing product is used:

6 (A) the purpose of the medication or a claim statement; and

7 (B) the established name of each active drug ingredient and the level
8 of each drug used in the final mixture; and

9 (8) the guaranteed analysis as required by rule pursuant to section 329 of
10 this title.

11 ~~(e)~~(d) For purposes of labeling customer-formula feeds, the guaranteed
12 analysis is not required when:

13 (1) one or more of the ingredients are provided to the manufacturer by
14 the final purchaser; or

15 (2) the manufacturer uses a guaranteed analysis provided by the final
16 purchaser as part of the specific instructions for blending a customer-formula
17 feed.

18 § 326. MISBRANDING

19 A commercial feed, feed supplement, or dosage form animal health product
20 shall be deemed to be misbranded if:

21 (1) its labeling is false or misleading in any particular;

1 (2) it is distributed under the name of another commercial feed, feed
2 supplement, or dosage form animal health product;

3 (3) it is not labeled as required in section 325 of this title;

4 (4) it purports to be or is represented as a commercial feed, or if it
5 purports to contain or is represented as containing a commercial feed
6 ingredient, unless the commercial feed or feed ingredient conforms to the
7 definition, if any, prescribed by rule of the Commissioner; or

8 (5) information required to appear on the label in a conspicuous manner
9 cannot be easily identified or understood under customary conditions of
10 purchase and use.

11 § 327. ADULTERATION

12 (a) A commercial feed including whole seeds shall be deemed to be
13 adulterated if it bears or contains any poisonous or deleterious substance ~~which~~
14 that may render it injurious to human or animal health, but in case the
15 substance is not an added substance, the commercial feed shall not be
16 considered adulterated under this subsection if the quantity of the substance in
17 the commercial feed does not ordinarily render it injurious to health.

18 (b) Any other commercial feed, feed supplement, or dosage form animal
19 health product shall be deemed to be adulterated if:

20 (1) any valuable constituent has been in whole or in part omitted or
21 abstracted therefrom or any less valuable substance substituted therefor;

1 (2) its composition or quality falls below or differs from that which it is
2 purported or is represented to possess by its labeling;

3 (3) if use of the product may result in contamination of a raw
4 agricultural product;

5 (4) it contains a drug and the methods used in or the facilities or controls
6 used for its manufacture, processing, or packaging do not conform to current
7 good manufacturing practice and rules promulgated by the Secretary to assure
8 that the drug meets the requirement of this chapter as to safety and has the
9 identity and strength and meets the quality and purity characteristics ~~which~~ that
10 it purports or is represented to possess; or

11 ~~(4)~~(5) it contains viable weed seeds in amounts exceeding the limits that
12 the Secretary shall establish by rule.

13 § 328. ~~TONNAGE REPORTING~~

14 ~~(a) Every person who registers a commercial feed pursuant to the~~
15 ~~provisions of this chapter shall report to the Agency of Agriculture, Food and~~
16 ~~Markets annually the total amount of combined feed is distributed within the~~
17 ~~State and which is intended for use within the State. The report shall be made~~
18 ~~on forms and in a manner to be prescribed by the Secretary for calendar years~~
19 ~~2016 and 2017.~~

1 ~~(b) This reporting requirement shall not apply to pet foods, within the~~
2 ~~meaning of subdivisions 323(16) and (19) of this title, and shall not apply to~~
3 ~~feeds intended for use outside the State. [Repealed.]~~

4 § 329. RULES

5 (a) The Secretary is authorized to adopt rules establishing procedures or
6 standards, or both, for product registration, labeling, adulteration, reporting,
7 inspection, sampling, guarantees, product analysis, or other conditions
8 necessary for the implementation and enforcement of this chapter. Where
9 appropriate, the rules shall be consistent with the model rules developed by the
10 Association of American Feed Control Officials and regulations adopted by the
11 federal Food, Drug and Cosmetic Act, 21 U.S.C. § 301 et seq.

12 (b) The official definitions of feed ingredients and official feed terms
13 adopted by the Association of American Feed Control Officials and published
14 in the official publication of that organization, together with any regulation
15 promulgated pursuant to the authority of the federal Food, Drug and Cosmetic
16 Act, 21 U.S.C. § 301 et seq., relevant to the subject matter of this chapter, are
17 hereby adopted as rules under this chapter, together with all subsequent
18 amendments. The Secretary may, by rule, amend or repeal any rule adopted
19 under this subsection.

1 (c) A person shall not manufacture or distribute raw milk as a commercial
2 feed, feed supplement, or dosage form animal health product in the State for
3 any species unless all of the following conditions are satisfied:

4 (1) the raw milk shall be decharacterized using a sufficient method to
5 render it distinguishable from products packaged for human consumption;

6 (2) raw animal feed, feed supplements, dosage form animal health
7 products, or pet food products shall be packaged in containers that are labeled
8 “not for human consumption”;

9 (3) raw animal feed, feed supplements, dosage form animal health
10 products, or pet food products shall not be stored or placed for retail sale with,
11 or in the vicinity of, milk or milk products intended for human consumption;
12 and

13 (4) notwithstanding any rule adopted under subsection (b) of this section
14 to the contrary of the provisions of this subsection, the manufacture and
15 distribution of raw animal feed, feed supplements, dosage form animal health
16 products, or pet food products shall comply with the requirements of this
17 chapter.

18 § 330. INSPECTION; SAMPLING; ANALYSIS

19 (a) For the purpose of enforcing this chapter and determining whether or
20 not an operation may be subject to these provisions, the Secretary upon
21 presenting appropriate credentials is authorized:

1 (1) to enter any premises during normal business hours where
2 commercial feeds, feed supplements, or dosage form animal health products
3 are manufactured, processed, packed, or held for distribution and to stop and
4 enter any vehicle being used to transport or hold feeds;

5 (2) to inspect factories, warehouses, establishments, vehicles,
6 equipment, finished and unfinished materials, containers, and labeling;

7 (3) to sample commercial feed ~~and~~, feed ingredients, feed supplements,
8 or dosage form animal health products.

9 (b) Sampling and analysis shall be conducted in accordance with methods
10 published by the Association of Official Analytical Chemists or in accordance
11 with other generally recognized methods. The results of all analyses of official
12 samples shall be forwarded by the Secretary to the correspondent named in the
13 registration form and to the purchaser. When the inspection and analysis of an
14 official sample indicates that a commercial feed, feed supplement, or dosage
15 form animal health product has been adulterated or misbranded and upon
16 request within 30 days following receipt of the analysis, the Secretary shall
17 furnish to the registrant a portion of the sample concerned.

18 § 331. PRODUCT DEFICIENCY; SHORT WEIGHT

19 (a) No registrant may produce, package, distribute, or possess any
20 commercial feed, feed supplement, or dosage form animal health product that
21 is short weight or deficient in either guaranteed ingredients or guaranteed

1 analysis. The Secretary by rule shall establish permitted analytical variances
2 that shall be used to determine whether a commercial feed, feed supplement, or
3 dosage form animal health product is deficient.

4 (b) The Secretary is authorized to assess administrative penalties for any
5 product found to be short weight or deficient in guaranteed analysis. In
6 assessing these penalties, the Secretary shall give consideration to the
7 appropriateness of the penalty with respect to the size of the business being
8 assessed, the gravity of the violation, the good faith of the registrant, and the
9 overall history of prior violations. Administrative penalties shall be paid to the
10 Secretary for deposit and use in the revolving account established by
11 subsection 364(e) of this title. Penalties shall be assessed in the following
12 manner:

13 (1) any registrant who is found to have violated this section for a
14 particular product for the first time during any calendar year shall receive an
15 administrative penalty of not more than \$150.00;

16 (2) any registrant who is found to have violated this section with regard
17 to the same product for the second time during the same calendar year shall
18 receive an administrative penalty of not more than \$300.00; and

19 (3) any registrant who is found to have violated this section with regard
20 to the same product on three or more occasions during the same calendar year
21 shall receive an administrative penalty of not more than \$500.00.

1 (c) In assessing a penalty under this section, the Secretary shall issue a
2 written notice of penalty to the registrant setting forth in a short and plain
3 statement the alleged violation and the proposed fine. The notice shall state
4 that the penalty will become final 14 days from the date the notice of penalty is
5 issued unless the registrant requests a hearing before the Secretary.

6 (d) Any registrant aggrieved by a decision of the Secretary may appeal
7 questions of law to a Superior Court within 30 days of the final decision of the
8 Secretary. The Secretary may enforce a final administrative penalty by filing
9 an action in any District or Superior Court.

10 § 332. DETAINED COMMERCIAL FEEDS, FEED SUPPLEMENTS, OR
11 DOSAGE FORM ANIMAL HEALTH PRODUCTS

12 (a) ~~“Withdrawal from distribution”~~ Withdrawal from distribution orders.
13 When the Secretary has reasonable cause to believe any lot of commercial
14 feed, feed supplement, or dosage form animal health product is being
15 distributed in violation of any of the provisions of this chapter or any of the
16 rules under this chapter, he or she may issue and enforce a written or printed
17 “withdrawal from distribution” order, warning the distributor not to dispose of
18 the lot of commercial feed, feed supplement, or dosage form animal health
19 product in any manner until written permission is given by the Secretary or the
20 court. The Secretary shall release the lot of commercial feed, feed supplement,
21 or dosage animal health product withdrawn when this chapter and rules have

1 been complied with. If compliance is not obtained within 30 days, the
2 Secretary may begin, or upon request of the distributor or registrant shall
3 begin, proceedings for condemnation.

4 (b) “Condemnation and confiscation.” Any lot of commercial feed, feed
5 supplement, or dosage form animal health product not in compliance with this
6 chapter and rules shall be subject to seizure on complaint of the Secretary to a
7 court of competent jurisdiction in the area in which the commercial feed is
8 located. In the event the court finds the commercial feed, feed supplement, or
9 dosage form animal health product to be in violation of this chapter and orders
10 the condemnation of the commercial feed, feed supplement, or dosage form
11 animal health product, it shall be disposed of in any manner consistent with the
12 quality of the commercial feed, feed supplement, or dosage form animal health
13 product and the laws of the State, provided that in no instance shall the
14 disposition of the commercial feed, feed supplement, or dosage form animal
15 health product be ordered by the court without first giving the claimant an
16 opportunity to apply to the court for release of the commercial feed, feed
17 supplement, or dosage form animal health product or for permission to process
18 or relabel the commercial feed, feed supplement, or dosage form animal health
19 product to bring it into compliance with this chapter.

20 * * *

1 § 336. ADMINISTRATIVE PENALTY

2 Consistent with chapter 1 of this title, the Secretary may assess an
3 administrative penalty upon determining that a person has violated a rule
4 issued under this chapter or has violated this chapter in the following manner:

5 (1) Distributed a feed, feed supplement, or dosage form animal health
6 product without first obtaining the appropriate product registration.

7 (2) Distributed a commercial feed, feed supplement, or dosage form
8 animal health product without appropriate labeling.

9 (3) Violated a cease and desist order.

10 (4) Failed to meet the product guarantee on the label or for the custom
11 formula feed.

12 (5) Distributed a commercial feed ~~which~~, feed supplement, or dosage
13 form animal health product that is adulterated as defined in section 327 of this
14 chapter.

15 * * * Plant Amendments; Plant Biostimulants; Soil Amendments * * *

16 Sec. 10. 6 V.S.A. chapter 28 is amended to read:

17 CHAPTER 28. FERTILIZER AND LIME

18 § 361. TITLE

19 This chapter shall be known as the “Fertilizer and Lime Law of 1986.”

1 § 362. ENFORCING OFFICIAL

2 This chapter shall be administered by the Secretary of Agriculture, Food
3 and Markets, or ~~his or her~~ designee, hereafter referred to as the Secretary.

4 § 363. DEFINITIONS

5 As used in this chapter:

6 (1) “Agricultural lime” or “agricultural liming material” or “lime”

7 means ~~and includes~~:

8 (A) all products ~~whose~~ with calcium and magnesium compounds that
9 are capable of neutralizing soil acidity and ~~which~~ that are intended, sold, or
10 offered for sale for agricultural or plant propagation purposes;

11 (B) limestone consisting essentially of calcium carbonate or a
12 combination of calcium carbonate with magnesium carbonate capable of
13 neutralizing soil acidity; or

14 (C) industrial waste or industrial by-products ~~which~~ that contain
15 calcium, calcium and magnesium, or calcium, magnesium, and potassium in
16 forms that are capable of neutralizing soil acidity and which are intended, sold,
17 or offered for sale for agricultural purposes. For the purposes of this chapter,
18 the terms “agricultural lime,” “lime,” and “agricultural liming material” shall
19 have the same meaning.

1 (2) “Brand” means a term, design, or trademark used in connection with
2 one or more grades or formulas of fertilizer, plant amendment, plant
3 biostimulant, soil amendment, or lime.

4 (3) “Distribute” means to import, consign, manufacture, produce,
5 compound, mix, or blend fertilizer or to offer for sale, sell, barter, or otherwise
6 supply ~~or apply~~ a fertilizer, a plant amendment, a plant biostimulant, a soil
7 amendment, or lime in this State. “Distribute” shall include online sales.

8 (4) “Distributor” means any person who distributes fertilizer, plant
9 amendments, plant biostimulants, soil amendments, or lime.

10 (5) “Exceptional quality biosolid” means a product derived in whole or
11 in part from domestic wastes that have been subjected to and meet the
12 requirements of the following:

13 (A) a pathogen reduction process established in 40 C.F.R.
14 § 503.32(a)(3), (4), (7), or (8);

15 (B) one of the vector attraction reduction standards established in 40
16 C.F.R. part 503.33;

17 (C) the contaminant concentration limits in Vermont Solid Waste
18 Rules § 6-1303(a)(1); and

19 (D) if derived from a composting process, Vermont Solid Waste
20 Rules § 6-1303(a)(4).

1 ~~(5)~~(6) “Fertilizer” means any substance containing one or more
2 recognized plant nutrients that is used for its plant nutrient content and that is
3 designed for use or claimed to have value in promoting plant growth or health,
4 except unprocessed animal or vegetable manures and other products exempted
5 by the Secretary.

6 (A) A fertilizer material is a substance that either:

7 (i) contains important quantities of at least one of the primary
8 plant nutrients: nitrogen, phosphorus, or potassium;

9 (ii) has 85 percent or more of its plant nutrient content present in
10 the form of a single chemical compound; or

11 (iii) is derived from a plant or chemical residue or by-product or
12 natural material deposit ~~which~~ that has been processed in such a way that its
13 content of plant nutrients has not been materially changed except by
14 purification and concentration.

15 (B) A mixed fertilizer is a fertilizer containing any combination or
16 mixture of fertilizer materials.

17 (C) A specialty fertilizer is a fertilizer distributed for nonfarm use.

18 (D) A bulk fertilizer is a fertilizer distributed in a nonpackaged form.

19 (7) “Formulation” means a material or mixture of materials prepared
20 according to a particular formula.

1 ~~(6)~~(8) “Grade” means the percentage of total nitrogen, available
2 phosphorus or phosphoric acid, and soluble potassium or potash stated in
3 whole numbers in the same terms, order, or percentages as in the guaranteed
4 analysis. Specialty fertilizers and fertilizer materials may be guaranteed in
5 fractional terms. Any grade expressed in fractional terms ~~which~~ that is not
6 preceded by a whole number shall be preceded by zero.

7 ~~(7)~~(9) “Guaranteed analysis” means:

8 (A) in reference to fertilizer, the minimum percentages of plant
9 nutrients claimed by the manufacturer or producer of the product in the
10 following order and form: nitrogen, phosphorus, and potash; and

11 (B) in reference to agricultural lime or agricultural liming material,
12 the minimum percentages of calcium oxide and magnesium oxide or calcium
13 carbonate and the calcium carbonate equivalent, or both, as claimed by the
14 manufacturer or producer of the product.

15 ~~(8)~~(10) “Label” means the display of all written, printed, or graphic
16 matter upon the immediate container, or a statement accompanying a fertilizer,
17 plant amendment, plant biostimulant, soil amendment, or lime.

18 ~~(9)~~(11) “Labeling” means all written, printed, or graphic material upon
19 or accompanying any ~~lime or~~ fertilizer, plant amendment, plant biostimulant,
20 soil amendment, or lime including advertisements, brochures, posters, and

1 television and radio announcements used in promoting the sale of the ~~lime or~~
2 fertilizer, plant amendment, plant biostimulant, soil amendment, or lime.

3 ~~(10)~~(12) “Official sample” means any sample of fertilizer, plant
4 amendment, plant biostimulant, soil amendment, or lime taken by the
5 Secretary.

6 (13) “Plant amendment” means any substance applied to plants or seeds
7 that is intended to improve growth, yield, product quality, reproduction, flavor
8 or other favorable characteristics of plants, except for fertilizer, soil
9 amendments, agricultural liming materials, animal and vegetable manures,
10 pesticides, plant regulators, and other materials exempted by rule adopted
11 under this chapter.

12 (14) “Plant biostimulant” means a substance or microorganism that,
13 when applied to seeds, plants, or the rhizosphere, stimulates natural processes
14 to enhance or benefit nutrient uptake, nutrient efficiency, tolerance to abiotic
15 stress, or crop quality and yield except for fertilizers, soil amendments, plant
16 amendments, or pesticides.

17 ~~(11)~~(15) “Percent” or “percentage” means the percentage by weight.

18 ~~(12)~~(16) “Primary nutrient” includes nitrogen, available phosphoric acid
19 or phosphorus, and soluble potash or potassium.

1 ~~(13)~~(17) “Product” means the name of the fertilizer, plant amendment,
2 plant biostimulant, soil amendment, or lime ~~which~~ that identifies it as to kind,
3 class, or specific use.

4 ~~(14)~~(18) “Registrant” means the person who registers ~~fertilizers~~ a
5 fertilizer, plant amendment, plant biostimulant, soil amendment, or lime under
6 the provisions of this chapter.

7 (19) “Soil amendment” means a substance or mixture of substance that
8 is intended to improve the physical, chemical, biological, or other
9 characteristics of the soil, except fertilizers, agricultural liming materials,
10 unprocessed animal manures, unprocessed vegetable manures, pesticides, plant
11 biostimulants, and other materials exempted by rule. A compost product from
12 a facility under the jurisdiction of the Agency of Natural Resources’ Solid
13 Waste Management Rules or exceptional quality biosolids shall not be
14 regulated as a soil amendment under this chapter, unless marketed and
15 distributed for the use in the production of an agricultural commodity.

16 ~~(15)~~(20) “Ton” means a net weight of 2,000 pounds avoirdupois.

17 ~~(16)~~(21) “Use” includes all purposes for which a fertilizer, plant
18 amendment, plant biostimulant, soil amendment, or lime is applied.

19 ~~(17)~~(22) “Weight” means the weight of undried material as offered for
20 sale.

1 § 364. REGISTRATION

2 (a) Each brand or grade or formula of fertilizer, plant amendment, plant
3 biostimulant, or soil amendment shall be registered in the name of the person
4 whose name appears upon the label before being distributed in this State. The
5 application for registration shall be submitted to the Secretary on a form
6 furnished by the Agency of Agriculture, Food and Markets and shall be
7 accompanied by a fee of ~~\$20.00 per nutrient or recognized plant food element~~
8 ~~to a maximum of \$140.00 per brand or grade~~ \$85.00 per grade or formulation
9 registered. Upon approval by the Secretary, a copy of the registration shall be
10 furnished to the applicant. All registrations expire on December 31 of each
11 year. The application shall include the following information:

- 12 (1) the brand and grade or formulation;
- 13 (2) the guaranteed analysis if applicable; and
- 14 (3) the name and address of the registrant.

15 (b) A distributor shall not be required to register any fertilizer ~~which~~, plant
16 amendment, plant biostimulant, or soil amendment that is already registered
17 under this chapter by another person, provided there is no change in the label
18 for the fertilizer, plant amendment, plant biostimulant, or soil amendment.

19 (c) A distributor shall not be required to register each grade of fertilizer
20 formulated or each formulation of soil amendment according to specifications
21 ~~which~~ that are furnished by a consumer prior to mixing, but shall be required to

1 label the fertilizer or soil amendment as provided in subsection 365(b) of this
2 title.

3 (d) The Secretary may request additional proof of testing of products prior
4 to registration for guaranteed analyses or adulterants.

5 (e) Each separately identified agricultural lime product shall be registered
6 before being distributed in this State. Registration shall be performed in the
7 same manner as fertilizer registration except that each application shall be
8 accompanied by a fee of \$50.00 per product.

9 (e) (f) The registration and tonnage fees, along with any deficiency
10 penalties collected pursuant to sections 331 and 372 of this title, shall be
11 deposited in a special fund. Funds deposited in this fund shall be restricted to
12 implementing and administering the provisions of this title and any other
13 provisions of law relating to feeds and seeds.

14 § 365. LABELS

15 (a)(1) Any fertilizer or agricultural lime distributed in this State in
16 containers shall have placed on or affixed to the container a label setting forth
17 in clearly legible and conspicuous form the following information:

18 (A) net weight;

19 (B) brand and grade, provided that grade shall not be required when
20 no primary nutrients are claimed;

21 (C) guaranteed analysis; and

1 (D) name and address of the registrant.

2 (2) For bulk shipments, this information in written or printed form shall
3 accompany delivery and be supplied to the purchaser at the time of delivery.

4 (b) A fertilizer or lime formulated according to specifications furnished by
5 a consumer prior to mixing shall be labeled to show: the net weight, the
6 guaranteed analysis or name, analysis and weight of each ingredient used in the
7 mixture, and the name and address of the distributor and purchaser.

8 (c)(1) If the Secretary finds that a requirement for expressing calcium and
9 magnesium in elemental form would not impose an economic hardship on
10 distributors and users of agricultural liming materials by reason of conflicting
11 label requirements among states, he or she may require by rule that the
12 minimum percent of calcium oxide and magnesium oxide or calcium carbonate
13 and magnesium carbonate, or both, shall be expressed in the following terms:

14 Total Calcium (Ca) percent

15 Total Magnesium (Mg) percent

16 ~~(2) Under this rule, an affected person shall be given a reasonable time~~
17 ~~to come into compliance.~~

18 (d)(1) Any plant amendment, plant biostimulant, or soil amendment
19 distributed in this State in containers shall have placed on or affixed to the
20 container a label setting forth in clearly legible and conspicuous form the
21 following information:

- 1 (A) net weight or volume;
- 2 (B) brand name;
- 3 (C) purpose of product;
- 4 (D) directions for application;
- 5 (E) guaranteed analysis; and
- 6 (F) name and address of the registrant.

7 (2) For bulk shipments of fertilizer, plant amendments, plant
8 biostimulants, soil amendments, or lime, the information required under this
9 subsection shall accompany delivery in written or printed form and shall be
10 supplied to the purchaser at the time of delivery.

11 (4) Under ~~this~~ a rule adopted under this subsection, an affected person
12 shall be given a reasonable time to come into compliance.

13 § 366. TONNAGE FEES

14 (a) A person distributing fertilizer to a nonregistrant consumer in the State
15 annually shall pay the following fees to the Secretary:

- 16 (1) a \$150.00 minimum tonnage fee;
- 17 (2) \$0.50 per ton of agricultural fertilizer distributed; and
- 18 (3) \$30.00 per ton of nonagricultural fertilizer distributed.

19 (b) Persons distributing fertilizer shall report annually on or before
20 January 15 for the previous year ending December 31 to the Secretary
21 revealing the amounts of each grade of fertilizer and the form in which the

1 fertilizer was distributed within this State. Each report shall be accompanied
2 with payment and written permission allowing the Secretary to examine the
3 person's books for the purpose of verifying tonnage reports.

4 (c) No information concerning tonnage sales furnished to the Secretary
5 under this section shall be disclosed in such a way as to divulge the details of
6 the business operation to any person unless it is necessary for the enforcement
7 of the provisions of this chapter.

8 (d) Persons distributing a plant amendment, plant biostimulant, or soil
9 amendment in the State shall report annually on or before January 15 for the
10 previous year ending December 31 to the Secretary revealing the amounts of
11 each formulation of plant amendment, plant biostimulant, or soil amendment
12 and the form in which the plant amendment, plant biostimulant, or soil
13 amendment was distributed within this State. Each report shall include a
14 written authorization allowing the Secretary to examine the person's books for
15 the purpose of verifying tonnage reports. Plant amendments, plant
16 biostimulants, and soil amendments are exempt from tonnage fees.

17 (e) Agricultural limes, including agricultural lime mixed with wood ash,
18 are exempt from the tonnage fees required in this section.

19 (f) Lime and wood ash mixtures may be registered as agricultural liming
20 materials and guaranteed for potassium or potash, provided that the wood ash
21 totals less than 50 percent of the mixture.

1 (g)(1) All fees collected under subdivisions (a)(1) and (2) of this section
2 shall be deposited in the special fund created by subsection 364(e) of this title
3 and used in accordance with its provisions.

4 (2) All fees collected under subdivision (a)(3) of this section shall be
5 deposited in the Agricultural Water Quality Special Fund created under section
6 4803 of this title.

7 (h) [Repealed.]

8 § 367. INSPECTION; SAMPLING; ANALYSIS

9 For the purpose of enforcing this chapter and determining whether or not
10 fertilizers, plant amendments, plant biostimulants, soil amendments, and limes
11 lime distributed in this State endanger the health and safety of Vermont
12 citizens, the Secretary upon presenting appropriate credentials is authorized:

13 (1) To enter any public or private premises except domiciles during
14 regular business hours and stop and enter any vehicle being used to transport or
15 hold fertilizer, a plant amendment, a plant biostimulant, a soil amendment, or
16 lime.

17 (2) To inspect blending plants, warehouses, establishments, vehicles,
18 equipment, finished or unfinished materials, containers, labeling, and records
19 relating to distribution, storage, or use.

20 (3) To sample and analyze any fertilizer, plant amendment, plant
21 biostimulant, soil amendment, or lime. The methods of sampling and analysis

1 shall be those adopted by the Association of Official Analytical Chemists. In
2 cases not covered by this method or in cases where methods are available in
3 which improved applicability has been demonstrated, the Secretary may
4 authorize and adopt methods which reflect sound analytical procedures.

5 (4) To develop any reasonable means necessary to monitor and adopt
6 rules for the use of fertilizers ~~and agricultural limes~~, plant amendments, plant
7 biostimulants, soil amendments, and lime on Vermont soils where monitoring
8 indicates environmental or health problems. In addition, the Secretary may
9 develop and adopt rules for the proper storage of fertilizers ~~and limes~~, plant
10 amendments, plant biostimulants, soil amendments, and lime held for
11 distribution or sale.

12 § 368. MISBRANDING

13 (a) No person shall distribute a misbranded fertilizer, plant amendment,
14 plant biostimulant, soil amendment, or agricultural lime. A fertilizer, plant
15 amendment, plant biostimulant, or soil amendment shall be deemed to be
16 misbranded if:

17 (1) its labeling is false or misleading in any particular;

18 (2) it is distributed under the name of another fertilizer product, plant
19 amendment, plant biostimulant, or soil amendment;

20 (3) it contains unsubstantiated claims;

1 (4) it is not labeled as required in section 365 of this title and in
2 accordance with rules adopted under this chapter; or
3 ~~(4)~~(5) it is labeled, or represented, to contain a plant nutrient ~~which that~~
4 does not conform to the standard of identity established by rule. In adopting
5 ~~these rules~~ under this chapter, the Secretary shall give consideration to
6 definitions recommended by the Association of American Plant Food Control
7 Officials.

8 (b) An agricultural lime shall be deemed to be misbranded if:

9 (1) its labeling is false or misleading in any particular; or

10 (2) it is not labeled as required by section 365 of this title and in
11 accordance with rules adopted under this chapter.

12 § 369. ADULTERATION

13 No person shall distribute an adulterated lime, plant amendment, plant
14 biostimulant, soil amendment, or fertilizer product. A fertilizer, plant
15 amendment, plant biostimulant, soil amendment, or lime shall be deemed to be
16 adulterated if:

17 (1) it contains any deleterious or harmful ingredient in an amount
18 sufficient to render it injurious to beneficial plant life when applied in
19 accordance with directions for use on the label, or if uses of the product may
20 result in contamination or condemnation of a raw agricultural commodity by

1 use, or if adequate warning statements or directions for use ~~which~~ that may be
2 necessary to protect plant life are not shown on the label;

3 (2) its composition falls below or differs from that which it is purported
4 to possess by its labeling;

5 (3) it contains crop seed or weed seed; or

6 (4) it contains heavy metals, radioactive substances, or synthetic
7 organics in amounts sufficient to render it injurious to livestock or human
8 health when applied in accordance with directions for use on the label, or if
9 adequate warning statements or directions for use ~~which~~ that may be necessary
10 to protect livestock or human health are not shown on the label.

11 § 370. PUBLICATION; CONSUMER INFORMATION REGARDING

12 ~~FERTILIZER~~ USE ON NONAGRICULTURAL TURF OF

13 FERTILIZER, PLANT AMENDMENTS, PLANT

14 BIOSTIMULANTS, AND SOIL AMENDMENTS

15 (a) The Secretary shall publish on an annual basis:

16 (1) information concerning the distribution of fertilizers, plant
17 amendments, plant biostimulants, soil amendments, and limes; and

18 (2) results of analyses based on official samples of fertilizers, plant
19 amendments, plant biostimulants, soil amendments, and lime distributed within
20 the State as compared with guaranteed analyses required pursuant to the terms
21 of this chapter.

1 (b)(1) The Secretary, in consultation with the University of Vermont
2 Extension, fertilizer industry representatives, lake groups, and other interested
3 or affected parties, shall produce information for distribution to the general
4 public with respect to the following:

5 (A) problems faced by the waters of the State because of discharges
6 of phosphorus;

7 (B) an explanation of the extent to which phosphorus exists naturally
8 in the soil;

9 (C) voluntary best management practices for the use of fertilizers
10 containing phosphorus on nonagricultural turf; and

11 (D) best management practices for residential sources of phosphorus.

12 (2) The Secretary shall develop the information required under this
13 subsection and make it available to the general public in the manner deemed
14 most effective, which may include:

15 (A) conspicuous posting at the point of retail sale of fertilizer
16 containing phosphorus, according to recommendations for how that
17 conspicuous posting may best take place;

18 (B) public service announcements by means of electronic media;

19 (C) other methods deemed by the Secretary to be likely to be
20 effective.

1 (3) ~~The Secretary shall develop proposed criteria for evaluating the~~
2 ~~effectiveness of the information program and shall present them to legislative~~
3 ~~committees on natural resources and energy and on agriculture by no later than~~
4 ~~January 1, 2007. By no later than July 1, 2007, the Secretary shall hold one or~~
5 ~~more public information meetings to obtain the input of the public on a draft~~
6 ~~assessment of the effectiveness of this section in increasing the use of best~~
7 ~~management practices in the use of fertilizers on nonagricultural turf. By no~~
8 ~~later than December 1, 2008, the Secretary shall provide those legislative~~
9 ~~committees with a final assessment of the effectiveness of this subsection,~~
10 ~~which shall include an analysis of the extent to which the information~~
11 ~~developed under this subsection has been effectively provided to and relied~~
12 ~~upon by retail customers who purchase fertilizers containing phosphorus and~~
13 ~~shall include any recommendations for making the program more effective.~~
14 [Repealed.]

15 § 371. RULES; ~~ENFORCEMENT~~

16 The Secretary is authorized to adopt rules pursuant to 3 V.S.A. chapter 25
17 as may be necessary to implement the intent of this chapter and to enforce
18 those rules.

19 * * *

1 § 374. SHORT WEIGHT

2 (a) If any fertilizer, plant amendment, plant biostimulant, soil amendment,
3 or agricultural liming material is found to be short in net weight, the registrant
4 of the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime
5 shall pay a penalty of three times the value of the actual shortage to the
6 affected party.

7 (b) Each registrant shall be offered an opportunity for a hearing before the
8 Secretary. Penalty payments shall be made within 30 days after notice of the
9 Secretary's decision to assess a penalty. Proof of payment to the consumer
10 shall be promptly forwarded to the Secretary by the registrant.

11 (c) If the consumer cannot be found, the amount of the penalty payments
12 shall be paid to the Secretary who shall deposit the payment into the revolving
13 account established by subsection 364(e) of this title.

14 (d) This section is not an exclusive cause of action and persons affected
15 may utilize any other right of action available under law.

16 § 375. CANCELLATION OF REGISTRATION

17 The Secretary is authorized to cancel or suspend the registration of any
18 fertilizer, plant amendment, plant biostimulant, soil amendment, or ~~liming~~
19 ~~material~~ lime or refuse a registration application if he or she finds that the
20 provisions of this chapter or the rules adopted under this chapter have been

1 violated, provided that no registration shall be revoked or refused without a
2 hearing before the Secretary.

3 § 376. DETAINED FERTILIZER AND LIME

4 (a) “Withdrawal from distribution” orders. When the Secretary has
5 reasonable cause to believe any lot of fertilizer, plant amendment, plant
6 biostimulant, soil amendment, or lime is being distributed in violation of any
7 of the provisions of this chapter or any of the rules under this chapter, he or she
8 may issue and enforce a written or printed “withdrawal from distribution”
9 order, warning the distributor not to dispose of the lot of fertilizer, plant
10 amendment, plant biostimulant, soil amendment, or lime in any manner until
11 written permission is given by the Secretary or the court. The Secretary shall
12 release the lot of fertilizer, plant amendment, plant biostimulant, soil
13 amendment, or lime withdrawn when this chapter and rules have been
14 complied with. If compliance is not obtained within 30 days, the Secretary
15 may begin, or upon request of the distributor or registrant shall begin,
16 proceedings for condemnation.

17 (b) “Condemnation and confiscation.” Any lot of fertilizer, plant
18 amendment, plant biostimulant, soil amendment, or lime not in compliance
19 with this chapter and rules shall be subject to seizure on complaint of the
20 Secretary to a court of competent jurisdiction in the area in which the fertilizer,
21 plant amendment, plant biostimulant, soil amendment, or lime is located. In

1 the event the court finds the fertilizer, plant amendment, plant biostimulant,
2 soil amendment, or lime to be in violation of this chapter and orders the
3 condemnation of the fertilizer, plant amendment, plant biostimulant, soil
4 amendment, or lime, it shall be disposed of in any manner consistent with the
5 quality of the fertilizer, plant amendment, plant biostimulant, soil amendment,
6 or lime and the laws of the State, provided that in no instance shall disposition
7 of the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime
8 be ordered by the court without first giving the claimant an opportunity to
9 apply to the court for release of the fertilizer, plant amendment, plant
10 biostimulant, soil amendment, or lime or for permission to process or relabel
11 the fertilizer, plant amendment, plant biostimulant, soil amendment, or lime to
12 bring it into compliance with this chapter.

13 * * *

14 § 379. EXCHANGES BETWEEN MANUFACTURERS

15 Nothing in this chapter shall be construed to restrict or impair sales or
16 exchanges of fertilizers, plant amendments, plant biostimulants, or soil
17 amendments to each other by importers, manufacturers, or manipulators who
18 mix fertilizer materials, plant amendments, plant biostimulants, or soil
19 amendments for sale, or to prevent the free and unrestricted shipments of
20 fertilizer, plant amendments, plant biostimulants, or soil amendments to

1 manufacturers or manipulators who have registered their brands as required by
2 provisions of this chapter.

3 § 380. ADMINISTRATIVE PENALTY

4 Consistent with chapter 1 of this title, the Secretary may assess an
5 administrative penalty upon determining that a person has violated a rule
6 issued under this chapter or has violated this chapter in the following manner:

7 (1) distributed a specialty fertilizer, plant amendment, plant
8 biostimulant, soil amendment, or lime without first obtaining the appropriate
9 product registration;

10 (2) distributed a fertilizer, plant amendment, plant biostimulant, soil
11 amendment, or lime without appropriate labeling;

12 (3) failed to report or to accurately report the amount and form of each
13 grade of fertilizer distributed in Vermont on an annual basis;

14 (4) failed to report or to accurately report the amount and form of each
15 formulation of plant amendment, plant biostimulant, or soil amendment;

16 (5) failed to pay the appropriate tonnage fee; or

17 ~~(5)~~(6) violated a cease and desist order.

18 § 381. GOLF COURSES; NUTRIENT MANAGEMENT PLAN

19 ~~Beginning July 1, 2012, as~~ As a condition of the permit issued to golf
20 courses under chapter 87 of this title and ~~regulations~~ rules adopted thereunder,
21 a golf course shall be required to submit to the Secretary of Agriculture, Food

1 and Markets a nutrient management plan for the use and application of
2 fertilizer to grasses or other lands owned or controlled by the golf course. The
3 nutrient management plan shall ensure that the golf course applies fertilizer
4 according to the agronomic rates for the site-specific conditions of the golf
5 course.

6 * * * Effective Dates * * *

7 Sec. 11. EFFECTIVE DATES

8 (a) This section and Secs. 1–8a (compost foraging; farming) shall take
9 effect on passage.

10 (b) All other sections shall take effect on July 1, 2021.

11
12
13
14
15
16
17 (Committee vote: _____)

18 _____

19 Representative _____

20 FOR THE COMMITTEE