

H.484

Introduced by Committee on Agriculture, Food Resiliency, and Forestry

Date:

Subject: Agriculture; fertilizer; beneficial substances; miscellaneous subjects

Statement of purpose of bill as introduced: This bill proposes to amend the State statutes on the use of plant amendments, plant biostimulants, and soil amendments to be consistent with the uniform standards for regulation of beneficial substances. The bill would define “beneficial substances” to mean any substance or compound, other than primary, secondary, and micro plant nutrients (fertilizers), and excluding pesticides, that can be demonstrated by scientific research to be beneficial to one or more species of plants, soil, or media.

An act relating to miscellaneous agricultural subjects

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 6 V.S.A. chapter 28 is amended to read:

CHAPTER 28. FERTILIZER AND, LIME, AND BENEFICIAL
SUBSTANCES

§ 361. TITLE

1 This chapter shall be known as the “Fertilizer, Lime, ~~Plant Amendment,~~
2 ~~Plant Biostimulant, and Soil Amendment~~ and Beneficial Substances Law.”

3 § 362. ENFORCING OFFICIAL

4 This chapter shall be administered by the Secretary of Agriculture, Food
5 and Markets or designee, hereafter referred to as the Secretary.

6 § 363. DEFINITIONS

7 As used in this chapter:

8 (1) “Agricultural lime” or “agricultural liming material” or “lime”
9 means one or more of the following:

10 (A) All products with calcium and magnesium compounds that are
11 capable of neutralizing soil acidity and that are intended, sold, or offered for
12 sale for agricultural or plant propagation purposes.

13 (B) Limestone consisting essentially of calcium carbonate or a
14 combination of calcium carbonate with magnesium carbonate capable of
15 neutralizing soil acidity.

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

1 (2) “Beneficial substance” means any substance or compound, other
2 than primary, secondary, and micro plant nutrients (fertilizers), and excluding
3 pesticides, that can be demonstrated by scientific research to be beneficial to
4 one or more species of plants, soil, or media. Beneficial substances include
5 plant amendments, plant biostimulants, plant inoculants, soil amendments, soil
6 inoculants, and other chemical or biological substances beneficial to plants or
7 their growing environment.

8 (3) “Brand” means a term, design, or trademark used in connection with
9 one or more grades or formulas of fertilizer, ~~plant amendment, plant~~
10 ~~biostimulant, soil amendment~~ beneficial substance, or lime.

11 (3)(4) “Distribute” means to import, consign, manufacture, produce,
12 compound, mix, blend, offer for sale, sell, barter, or supply a fertilizer, ~~a plant~~
13 ~~amendment, a plant biostimulant, a soil amendment~~ a beneficial substance, or
14 lime in this State through any means, including sales outlets, catalogues, the
15 telephone, the internet, or any electronic means.

16 (4)(5) “Distributor” means any person who distributes fertilizer, ~~plant~~
17 ~~amendment, plant biostimulant, soil amendments~~ beneficial substance, or lime.

18 (5)(6) “Exceptional quality biosolid” means a product derived in whole
19 or in part from domestic wastes that have been subjected to and meet the
20 requirements of the following:

1 (A) a pathogen reduction process established in 40 C.F.R.

2 § 503.32(a)(3), (4), (7), or (8);

3 (B) one of the vector attraction reduction standards established in 40
4 C.F.R. § 503.33;

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

7 (D) if derived from a composting process, Vermont Solid Waste
8 Rules § 6-1303(a)(5).

9 ~~(6)~~(7) “Fertilizer” means any substance containing one or more
10 recognized plant nutrients that is used for its plant nutrient content and that is
11 designed for use or claimed to have value in promoting plant growth or health,
12 except unprocessed animal or vegetable manures and other products exempted
13 by the Secretary.

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

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

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

19 (iii) is derived from a plant or chemical residue or by-product or
20 natural material deposit that has been processed in such a way that its content

1 of plant nutrients has not been materially changed except by purification and
2 concentration.

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

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

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

7 ~~(7)~~(8) “Formulation” means a material or mixture of materials prepared
8 according to a particular formula.

9 ~~(8)~~(9) “Grade” means the percentage of total nitrogen, available
10 phosphorus or phosphoric acid, and soluble potassium or potash stated in
11 whole numbers in the same terms, order, or percentages as in the guaranteed
12 analysis. Specialty fertilizers and fertilizer materials may be guaranteed in
13 fractional terms. Any grade expressed in fractional terms that is not preceded
14 by a whole number shall be preceded by zero.

15 ~~(9)~~(10) “Guaranteed analysis” means:

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

19 (B) in reference to agricultural lime or agricultural liming material,
20 the minimum percentages of calcium oxide and magnesium oxide or calcium

1 carbonate and the calcium carbonate equivalent, or both, as claimed by the
2 manufacturer or producer of the product.

3 ~~(10)~~(11) “Label” means the display of all written, printed, or graphic
4 matter upon the immediate container or a statement accompanying a fertilizer,
5 ~~plant amendment, plant biostimulant, soil amendment~~ beneficial substance, or
6 lime.

7 ~~(11)~~(12) “Labeling” means all written, printed, or graphic material upon
8 or accompanying any fertilizer, ~~plant amendment, plant biostimulant, soil~~
9 ~~amendment~~ beneficial substance, or lime, including advertisements, brochures,
10 posters, and television and radio announcements used in promoting the sale of
11 the fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~ beneficial
12 substance, or lime.

13 ~~(12)~~(13) “Official sample” means any sample of fertilizer, ~~plant~~
14 ~~amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime
15 taken by the Secretary.

16 ~~(13)~~(14) “Plant amendment” means any substance applied to plants or
17 seeds that is intended to improve growth, yield, product quality, reproduction,
18 flavor, or other favorable characteristics of plants, except for fertilizer, soil
19 amendments, agricultural liming materials, animal and vegetable manures,
20 pesticides, plant regulators, and other materials exempted by rule adopted
21 under this chapter.

1 ~~(14)~~(15) “Plant biostimulant” means a substance ~~or~~, microorganism, or
2 mixtures thereof that, when applied to seeds, plants, ~~or~~ the rhizosphere,
3 stimulates soil, or other growth media act to support a plant’s natural nutrition
4 processes to ~~enhance or benefit nutrient uptake, nutrient efficiency, tolerance~~
5 to abiotic stress, or crop quality and yield, ~~except for fertilizers, soil~~
6 amendments, plant amendments, or pesticides independently of the
7 biostimulant’s nutrient content. The plant biostimulant thereby improves
8 nutrient availability, uptake, or use efficiency; tolerance to abiotic stress; and
9 consequent growth development, quality, or yield. The Secretary may modify
10 the definition of “plant biostimulant” by rule or procedure in order to maintain
11 consistency with U.S. Department of Agriculture requirements.

12 (16) “Plant inoculant” means a product consisting of microorganisms to
13 be applied to the plant or soil for the purpose of enhancing the availability or
14 uptake of plant nutrients through the root system.

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

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

18 ~~(17)~~(19) “Product” means the name of the fertilizer, ~~plant amendment,~~
19 ~~plant biostimulant, soil amendment~~ beneficial substance, or lime that identifies
20 it as to kind, class, or specific use.

1 ~~(18)~~(20) “Registrant” means the person who registers a fertilizer, ~~plant~~
2 ~~amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime
3 under the provisions of this chapter.

4 ~~(19)~~(21) “Soil amendment” means a substance or mixture of substance
5 that is intended to improve the physical, chemical, biochemical, biological, or
6 other characteristics of the soil or a distinct form of horticultural growing
7 media used in lieu of soil. “Soil amendment” does not mean fertilizers,
8 agricultural liming materials, unprocessed animal manures, unprocessed
9 vegetable manures, pesticides, ~~plant biostimulants~~, and other materials
10 exempted by rule. A compost product from a facility under the jurisdiction of
11 the Agency of Natural Resources’ Solid Waste Management Rules or
12 exceptional quality biosolids shall not be regulated as a soil amendment under
13 this chapter, unless marketed and distributed for the use in the production of an
14 agricultural commodity.

15 (22) “Soil inoculant” means a microbial product that is applied to
16 colonize the soil to benefit the soil chemistry, biology, or structure.

17 ~~(20)~~(23) “Ton” means a net weight of 2,000 pounds avoirdupois.

18 ~~(21)~~(24) “Use” includes all purposes for which a fertilizer, ~~plant~~
19 ~~amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime
20 is applied.

1 (22)(25) “Weight” means the weight of undried material as offered for
2 sale.

3 § 364. REGISTRATION

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

13 (1) the brand and grade or formulation;

14 (2) the guaranteed analysis if applicable; and

15 (3) the name and address of the registrant.

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

1 (c) Each beneficial substance brand shall refer to a specific formulation.
2 Different brands may refer to the same specific formulation. Products for
3 which formulations change, such as changes in the “Contains Beneficial
4 Substances” analysis, statement of composition, or anything that implies a
5 different product, must obtain a new registration with a brand that
6 distinguishes it from the previous formulation.

7 (d) A distributor shall not be required to register each grade of fertilizer
8 formulated or each formulation of soil amendment according to specifications
9 that are furnished by a consumer prior to mixing but shall be required to label
10 the fertilizer or soil amendment as provided in subsection 365(b) of this title.

11 ~~(d)~~(e) The Secretary may request additional proof of testing of products
12 prior to registration for guaranteed analyses or adulterants.

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

17 ~~(f)~~(g) The registration and tonnage fees, along with any deficiency
18 penalties collected pursuant to sections 331 and 372 of this title, shall be
19 deposited in a special fund. Funds deposited in this fund shall be restricted to
20 implementing and administering the provisions of this title and any other
21 provisions of law relating to feeds and seeds.

1 § 365. LABELS

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

5 (A) net weight;

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

8 (C) guaranteed analysis; and

9 (D) name and address of the registrant.

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

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

16 (c) If the Secretary finds that a requirement for expressing calcium and
17 magnesium in elemental form would not impose an economic hardship on
18 distributors and users of agricultural liming materials by reason of conflicting
19 label requirements among states, the Secretary may require by rule that the
20 minimum percent of calcium oxide and magnesium oxide or calcium carbonate
21 and magnesium carbonate, or both, shall be expressed in the following terms:

1 Total Calcium (Ca) percent

2 Total Magnesium (Mg) percent

3 (d)(1) Any ~~plant amendment, plant biostimulant, or soil amendment~~
4 beneficial substance distributed in this State in containers shall have placed on
5 or affixed to the container a label setting forth in clearly legible and
6 conspicuous form the following information:

7 (A) net weight or volume;

8 (B) brand name;

9 (C) purpose statement identifying the purpose of the product;

10 (D) directions for application or use;

11 (E) ~~guaranteed analysis; and~~

12 (F) name and address of the registrant; and

13 (F) a statement of composition showing the amount of each
14 ingredient, which is the agent in a product primarily responsible for the
15 intended effects using the following format:

16 CONTAINS BENEFICIAL SUBSTANCE(S)

17 Name of beneficial substance % (or acceptable
18 units)

19 Genus and species of microorganism % viable CFU/cm³, /ml,
20 /g, or other acceptable units

1 (Identify and list all beneficial substances. Substances shall include
2 ingredient source, if applicable. Ex. “humic acid from leonardite or saponin
3 from Yucca schidigera”).

4 (2) For products that claim microorganisms, labels shall also include:

5 (A) the expiration date for use; and

6 (B) storage conditions.

7 ~~(2)~~(3) For bulk shipments of fertilizer, ~~plant amendment, plant~~
8 ~~biostimulant, soil amendment~~ beneficial substances, or lime, the information
9 required under this subsection shall accompany delivery in written or printed
10 form and shall be supplied to the purchaser at the time of delivery.

11 (4) Efficacy data may be required to support beneficial substance
12 ingredient claims if the ingredient is not presently defined by the Association
13 of American Plant Food Control Officials’ Official Publication for the
14 particular claim.

15 ~~(3)~~(5) Under a rule adopted under this subsection, an affected person
16 shall be given a reasonable time to come into compliance.

17 § 366. TONNAGE FEES

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

20 (1) a \$150.00 minimum tonnage fee;

21 (2) \$0.50 per ton of agricultural fertilizer distributed; and

1 (3) \$30.00 per ton of nonagricultural fertilizer distributed.

2 (b) Persons distributing fertilizer shall report annually on or before January
3 15 for the previous year ending December 31 to the Secretary revealing the
4 amounts of each grade of fertilizer and the form in which the fertilizer was
5 distributed within this State. Each report shall be accompanied with payment
6 and written permission allowing the Secretary to examine the person's books
7 for the purpose of verifying tonnage reports.

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

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

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

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

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

9 (2) All fees collected under subdivision (a)(3) of this section shall be
10 deposited in the Agricultural Water Quality Special Fund created under section
11 4803 of this title.

12 (h) [Repealed.]

13 § 367. INSPECTION; SAMPLING; ANALYSIS

14 For the purpose of enforcing this chapter and determining whether ~~or not~~
15 fertilizers, ~~plant amendment, plant biostimulant, soil amendments~~ beneficial
16 substances, and lime distributed in this State endanger the health and safety of
17 Vermont citizens, the Secretary upon presenting appropriate credentials is
18 authorized:

19 (1) To enter any public or private premises except domiciles during
20 regular business hours and stop and enter any vehicle being used to transport

1 or hold fertilizer, ~~a plant amendment, a plant biostimulant, a soil amendment~~
2 beneficial substances, or lime.

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

6 (3) To sample and analyze any fertilizer, ~~plant amendment, plant~~
7 ~~biostimulant, soil amendment~~ beneficial substance, or lime. The methods of
8 sampling and analysis shall be those adopted by the Association of Official
9 Analytical Chemists. In cases not covered by this method or in cases where
10 methods are available in which improved applicability has been demonstrated,
11 the Secretary may authorize and adopt methods that reflect sound analytical
12 procedures.

13 (4) To develop any reasonable means necessary to monitor and adopt
14 rules for the use of fertilizers, ~~plant amendments, plant biostimulants, soil~~
15 ~~amendments~~ beneficial substances, and lime on Vermont soils where
16 monitoring indicates environmental or health problems. In addition, the
17 Secretary may develop and adopt rules for the proper storage of fertilizers,
18 ~~plant amendments, plant biostimulants, soil amendments~~ beneficial substances,
19 and lime held for distribution or sale.

§ 368. MISBRANDING

(a) No person shall distribute a misbranded fertilizer, ~~plant amendment,~~
~~plant biostimulant, soil amendment~~ beneficial substance, or agricultural lime.

A fertilizer, ~~plant amendment, plant biostimulant, or soil amendment~~
beneficial substance shall be deemed to be misbranded if the Secretary
determines one or more of the following:

(1) The labeling is false or misleading in any particular.

(2) It is distributed under the name of another fertilizer product, ~~plant~~
~~amendment, plant biostimulant, or soil amendment~~ beneficial substance.

(3) It contains unsubstantiated claims.

(4) It is not labeled as required in section 365 of this title and in
accordance with rules adopted under this chapter.

(5) It is labeled, or represented, to contain a plant nutrient that does not
conform to the standard of identity established by rule. In adopting rules
under this chapter, the Secretary shall ~~give consideration to~~ consider
definitions recommended by the Association of American Plant Food Control
Officials.

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

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

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

§ 369. ADULTERATION

No person shall distribute an adulterated lime, ~~plant amendment, plant biostimulant, soil amendment~~ beneficial substance, or fertilizer product. A fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime shall be deemed to be adulterated if:

(1) it contains any deleterious or harmful ingredient in an amount sufficient to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with directions for use on the label, or if uses of the product may result in contamination or condemnation of a raw agricultural commodity by use, or if adequate warning statements or directions for use that may be necessary to protect plant life, animals, humans, aquatic life, soil, or water are not shown on the label;

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

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

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

§ 370. PUBLICATION; CONSUMER INFORMATION REGARDING USE
ON NONAGRICULTURAL TURF OF FERTILIZER, ~~PLANT~~
~~AMENDMENTS, PLANT BIOSTIMULANTS, AND SOIL~~
~~AMENDMENTS~~ BENEFICIAL SUBSTANCES

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

(1) information concerning the distribution of fertilizers, ~~plant~~
~~amendments, plant biostimulants, soil amendments~~ beneficial substances, and
limes; and

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

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

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

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

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

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

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

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

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

11 (C) other methods deemed by the Secretary to be likely to be
12 effective.

13 * * *

14 § 371. RULES

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

18 * * *

19 § 374. SHORT WEIGHT

20 (a) If any fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~
21 beneficial substance, or agricultural liming material is found to be short in net

1 weight, the registrant of the fertilizer, ~~plant amendment, plant biostimulant,~~
2 ~~soil amendment~~ beneficial substance, or lime shall pay a penalty of three times
3 the value of the actual shortage to the affected party.

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

8 (c) If the consumer cannot be found, the amount of the penalty payments
9 shall be paid to the Secretary who shall deposit the payment into the revolving
10 account established by subsection 364(f) of this title.

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

13 § 375. CANCELLATION OF REGISTRATION

14 The Secretary is authorized to cancel or suspend the registration of any
15 fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~ beneficial
16 substance, or lime or refuse a registration application if the provisions of this
17 chapter or the rules adopted under this chapter have been violated, provided
18 that no registration shall be revoked or refused without a hearing before the
19 Secretary.

1 § 376. DETAINED FERTILIZER, BENEFICIAL SUBSTANCE, AND LIME

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

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

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

15 * * *

16 § 379. EXCHANGES BETWEEN MANUFACTURERS

17 Nothing in this chapter shall be construed to restrict or impair sales or
18 exchanges of fertilizers, ~~plant amendments, plant biostimulants, or soil~~
19 ~~amendments~~ or beneficial substances to each other by importers,
20 manufacturers, or manipulators who mix fertilizer materials, ~~plant~~
21 ~~amendments, plant biostimulants, or soil amendments~~ or beneficial substances

1 for sale or to prevent the free and unrestricted shipments of fertilizer, ~~plant~~
2 ~~amendments, plant biostimulant, or soil amendments~~ or beneficial substances
3 to manufacturers or manipulators who have registered their brands as required
4 by provisions of this chapter.

5 § 380. ADMINISTRATIVE PENALTY

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

9 (1) distributed a specialty fertilizer, ~~plant amendment, plant~~
10 ~~biostimulant, soil amendment~~ beneficial substance, or lime without first
11 obtaining the appropriate product registration;

12 (2) distributed a fertilizer, ~~plant amendment, plant biostimulant, soil~~
13 ~~amendment~~ beneficial substance, or lime without appropriate and accurate
14 labeling, including when a beneficial substance label does not reflect its
15 composition;

16 (3) distributed any adulterated fertilizer, beneficial substance, or lime;

17 (4) failed to disclose on the label sources of potentially deleterious
18 components;

19 (3)(5) failed to report or to accurately report the amount and form of
20 each grade of fertilizer distributed in Vermont on an annual basis;

4 ~~(5)(7)~~ failed to pay the appropriate tonnage fee; or

5 ~~(6)(8)~~ violated a cease and desist order.

7 Sec. 2. EFFECTIVE DATE

8 This act shall take effect on July 1, 2025.