

1 Introduced by Committee on Agriculture, Food Resiliency, and Forestry

2 Date:

3 Subject: Agriculture; fertilizer; beneficial substances; miscellaneous subjects

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

12 An act relating to miscellaneous agricultural subjects

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

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

15 CHAPTER 28. FERTILIZER ~~AND~~, LIME, AND BENEFICIAL
16 SUBSTANCES

17 § 361. TITLE

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

1 § 362. ENFORCING OFFICIAL

2 This chapter shall be administered by the Secretary of Agriculture, Food
3 and Markets or 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 one or more of the following:

8 (A) All products with calcium and magnesium compounds that are
9 capable of neutralizing soil acidity and that are intended, sold, or offered for
10 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.

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

20 (2) “Beneficial substance” means any substance or compound, other
21 than primary, secondary, and micro plant nutrients (fertilizers), and excluding

1 pesticides, that can be demonstrated by scientific research to be beneficial to
2 one or more species of plants, soil, or media. Beneficial substances include
3 plant amendments, plant biostimulants, plant inoculants, soil amendments, soil
4 inoculants, and other chemical or biological substances beneficial to plants or
5 their growing environment.

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

9 (3)(4) “Distribute” means to import, consign, manufacture, produce,
10 compound, mix, blend, offer for sale, sell, barter, or supply a fertilizer, ~~a plant~~
11 ~~amendment, a plant biostimulant, a soil amendment~~ a beneficial substance, or
12 lime in this State through any means, including sales outlets, catalogues, the
13 telephone, the internet, or any electronic means.

14 (4)(5) “Distributor” means any person who distributes fertilizer, ~~plant~~
15 ~~amendment, plant biostimulant, soil amendments~~ beneficial substance, or lime.

16 (5)(6) “Exceptional quality biosolid” means a product derived in whole
17 or in part from domestic wastes that have been subjected to and meet the
18 requirements of the following:

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

20 § 503.32(a)(3), (4), (7), or (8);

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

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

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

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

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

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

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

17 (iii) is derived from a plant or chemical residue or by-product or
18 natural material deposit that has been processed in such a way that its content
19 of plant nutrients has not been materially changed except by purification and
20 concentration.

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

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

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

5 ~~(7)~~(8) “Formulation” means a material or mixture of materials prepared
6 according to a particular formula.

7 ~~(8)~~(9) “Grade” means the percentage of total nitrogen, available
8 phosphorus or phosphoric acid, and soluble potassium or potash stated in
9 whole numbers in the same terms, order, or percentages as in the guaranteed
10 analysis. Specialty fertilizers and fertilizer materials may be guaranteed in
11 fractional terms. Any grade expressed in fractional terms that is not preceded
12 by a whole number shall be preceded by zero.

13 ~~(9)~~(10) “Guaranteed analysis” means:

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

17 (B) in reference to agricultural lime or agricultural liming material,
18 the minimum percentages of calcium oxide and magnesium oxide or calcium
19 carbonate and the calcium carbonate equivalent, or both, as claimed by the
20 manufacturer or producer of the product.

1 ~~(10)~~(11) “Label” means the display of all written, printed, or graphic
2 matter upon the immediate container or a statement accompanying a fertilizer,
3 ~~plant amendment, plant biostimulant, soil amendment~~ beneficial substance, or
4 lime.

5 ~~(11)~~(12) “Labeling” means all written, printed, or graphic material upon
6 or accompanying any fertilizer, ~~plant amendment, plant biostimulant, soil~~
7 ~~amendment~~ beneficial substance, or lime, including advertisements, brochures,
8 posters, and television and radio announcements used in promoting the sale of
9 the fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~ beneficial
10 substance, or lime.

11 ~~(12)~~(13) “Official sample” means any sample of fertilizer, ~~plant~~
12 ~~amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime
13 taken by the Secretary.

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

20 ~~(14)~~(15) “Plant biostimulant” means a substance ~~or~~, microorganism, or
21 mixtures thereof that, when applied to seeds, plants, ~~or~~ the rhizosphere,

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

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

13 ~~(15)~~(17) “Percent” or “percentage” means the percentage by weight.

14 ~~(16)~~(18) “Primary nutrient” includes nitrogen, available phosphoric acid
15 or phosphorus, and soluble potash or potassium.

16 ~~(17)~~(19) “Product” means the name of the fertilizer, ~~plant amendment,~~
17 ~~plant biostimulant, soil amendment~~ beneficial substance, or lime that identifies
18 it as to kind, class, or specific use.

19 ~~(18)~~(20) “Registrant” means the person who registers a fertilizer, ~~plant~~
20 ~~amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime
21 under the provisions of this chapter.

1 ~~(19)~~(21) “Soil amendment” means a substance or mixture of substance
2 that is intended to improve the physical, chemical, biochemical, biological, or
3 other characteristics of the soil or a distinct form of horticultural growing
4 media used in lieu of soil. “Soil amendment” does not mean fertilizers,
5 agricultural liming materials, unprocessed animal manures, unprocessed
6 vegetable manures, pesticides, ~~plant biostimulants~~, and other materials
7 exempted by rule. A compost product from a facility under the jurisdiction of
8 the Agency of Natural Resources’ Solid Waste Management Rules or
9 exceptional quality biosolids shall not be regulated as a soil amendment under
10 this chapter, unless marketed and distributed for the use in the production of an
11 agricultural commodity.

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

14 ~~(20)~~(23) “Ton” means a net weight of 2,000 pounds avoirdupois.

15 ~~(21)~~(24) “Use” includes all purposes for which a fertilizer, ~~plant~~
16 ~~amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime
17 is applied.

18 ~~(22)~~(25) “Weight” means the weight of undried material as offered for
19 sale.

1 § 364. REGISTRATION

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

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

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

19 (c) Each beneficial substance brand shall refer to a specific formulation.
20 Different brands may refer to the same specific formulation. Products for
21 which formulations change, such as changes in the “Contains Beneficial

1 Substances” analysis, statement of composition, or anything that implies a
2 different product, must obtain a new registration with a brand that
3 distinguishes it from the previous formulation.

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

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

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

14 ~~(f)~~(g) The registration and tonnage fees, along with any deficiency
15 penalties collected pursuant to sections 331 and 372 of this title, shall be
16 deposited in a special fund. Funds deposited in this fund shall be restricted to
17 implementing and administering the provisions of this title and any other
18 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 the
15 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 or

1 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.

1 § 368. MISBRANDING

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

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

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

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

10 (3) It contains unsubstantiated claims.

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

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

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

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

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

1 § 369. ADULTERATION

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

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

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

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

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

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

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

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

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

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

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

19 (B) an explanation of the extent to which phosphorus exists naturally
20 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 § 371. RULES

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

17 * * *

18 § 374. SHORT WEIGHT

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

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

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

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

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

12 § 375. CANCELLATION OF REGISTRATION

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

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

20 (a) Withdrawal from distribution orders. When the Secretary has
21 reasonable cause to believe any lot of fertilizer, ~~plant amendment, plant~~

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

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

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

12 * * *

13 § 379. EXCHANGES BETWEEN MANUFACTURERS

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

1 to manufacturers or manipulators who have registered their brands as required
2 by 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~~ beneficial substance, or lime without first
9 obtaining the appropriate product registration;

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

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

15 (4) failed to disclose on the label sources of potentially deleterious
16 components;

17 (3)(5) failed to report or to accurately report the amount and form of
18 each grade of fertilizer distributed in Vermont on an annual basis;

19 (4)(6) failed to report or to accurately report the amount and form of
20 each formulation of ~~plant amendment, plant biostimulant, or soil amendment~~
21 beneficial substance;

