

1 H.484

2 An act relating to miscellaneous agricultural subjects

3 The Senate proposes to the House to amend the bill by striking out all after
4 the enacting clause and inserting in lieu thereof the following:

5 * * * Beneficial Substances * * *

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

7 CHAPTER 28. FERTILIZER ~~AND~~, LIME, AND BENEFICIAL
8 SUBSTANCES

9 § 361. TITLE

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

12 § 362. ENFORCING OFFICIAL

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

15 § 363. DEFINITIONS

16 As used in this chapter:

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

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

1 (B) Limestone consisting essentially of calcium carbonate or a
2 combination of calcium carbonate with magnesium carbonate capable of
3 neutralizing soil acidity.

4 (C) Industrial waste or industrial ~~by-products~~ byproducts that contain
5 calcium; calcium and magnesium; or calcium, magnesium, and potassium in
6 forms that are capable of neutralizing soil acidity and that are intended, sold, or
7 offered for sale for agricultural purposes. For the purposes of this chapter, the
8 terms “agricultural lime,” “lime,” and “agricultural liming material” ~~shall~~ have
9 the same meaning.

10 (2) “Beneficial substance” means any substance or compound, other
11 than primary, secondary, and micro plant nutrients (fertilizers), and excluding
12 pesticides, that can be demonstrated by scientific research to be beneficial to
13 one or more species of plants, soil, or media. Beneficial substances include
14 plant amendments, plant biostimulants, plant inoculants, soil amendments, soil
15 inoculants, and other chemical or biological substances beneficial to plants or
16 their growing environment.

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

20 (3)(4) “Distribute” means to import, consign, manufacture, produce,
21 compound, mix, blend, offer for sale, sell, barter, or supply a fertilizer, ~~a plant~~

1 ~~amendment, a plant biostimulant, a soil amendment~~ a beneficial substance, or
2 lime in this State through any means, including sales outlets, catalogues, the
3 telephone, the internet, or any electronic means.

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

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

9 (A) a pathogen reduction process established in 40 C.F.R.
10 § 503.32(a)(3), (4), (7), or (8);

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

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

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

17 ~~(6)(7)~~ “Fertilizer” means any substance containing one or more
18 recognized plant nutrients that is used for its plant nutrient content and that is
19 designed for use or claimed to have value in promoting plant growth or health,
20 except unprocessed animal or vegetable manures and other products exempted
21 by the Secretary.

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

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

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

6 (iii) is derived from a plant or chemical residue or ~~by-product~~
7 byproduct or natural material deposit that has been processed in such a way
8 that its content of plant nutrients has not been materially changed except by
9 purification and concentration.

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

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

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

14 ~~(7)~~(8) “Formulation” means a material or mixture of materials prepared
15 according to a particular formula.

16 ~~(8)~~(9) “Grade” means the percentage of total nitrogen, available
17 phosphorus or phosphoric acid, and soluble potassium or potash stated in
18 whole numbers in the same terms, order, or percentages as in the guaranteed
19 analysis. Specialty fertilizers and fertilizer materials may be guaranteed in
20 fractional terms. Any grade expressed in fractional terms that is not preceded
21 by a whole number shall be preceded by zero.

1 ~~(9)~~(10) “Guaranteed analysis” means:

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

5 (B) in reference to agricultural lime or agricultural liming material,
6 the minimum percentages of calcium oxide and magnesium oxide or calcium
7 carbonate and the calcium carbonate equivalent, or both, as claimed by the
8 manufacturer or producer of the product.

9 ~~(10)~~(11) “Label” means the display of all written, printed, or graphic
10 matter upon the immediate container or a statement accompanying a fertilizer,
11 ~~plant amendment, plant biostimulant, soil amendment~~ beneficial substance, or
12 lime.

13 ~~(11)~~(12) “Labeling” means all written, printed, or graphic material upon
14 or accompanying any fertilizer, ~~plant amendment, plant biostimulant, soil~~
15 ~~amendment~~ beneficial substance, or lime, including advertisements, brochures,
16 posters, and television and radio announcements used in promoting the sale of
17 the fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~ beneficial
18 substance, or lime.

19 ~~(12)~~(13) “Official sample” means any sample of fertilizer, ~~plant~~
20 ~~amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime
21 taken by the Secretary.

1 ~~(13)~~(14) “Plant amendment” means any substance applied to plants or
2 seeds that is intended to improve growth, yield, product quality, reproduction,
3 flavor, or other favorable characteristics of plants, except for fertilizer, soil
4 amendments, agricultural liming materials, animal and vegetable manures,
5 pesticides, plant regulators, and other materials exempted by rule adopted
6 under this chapter.

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

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

1 ~~(15)~~(17) “Percent” or “percentage” means the percentage by weight.

2 ~~(16)~~(18) “Primary nutrient” includes nitrogen, available phosphoric acid
3 or phosphorus, and soluble potash or potassium.

4 ~~(17)~~(19) “Product” means the name of the fertilizer, ~~plant amendment,~~
5 ~~plant biostimulant, soil amendment~~ beneficial substance, or lime that identifies
6 it as to kind, class, or specific use.

7 ~~(18)~~(20) “Registrant” means the person who registers a fertilizer, ~~plant~~
8 ~~amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime
9 under the provisions of this chapter.

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

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

3 ~~(20)~~(23) “Ton” means a net weight of 2,000 pounds avoirdupois.

4 ~~(21)~~(24) “Use” includes all purposes for which a fertilizer, ~~plant~~
5 ~~amendment, plant biostimulant, soil amendment~~ beneficial substance, or lime
6 is applied.

7 ~~(22)~~(25) “Weight” means the weight of undried material as offered for
8 sale.

9 § 364. REGISTRATION

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

- 19 (1) the brand and grade or formulation;
20 (2) the guaranteed analysis if applicable; and
21 (3) the name and address of the registrant.

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

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

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

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

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

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

6 § 365. LABELS

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

10 (A) net weight;

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

13 (C) guaranteed analysis; and

14 (D) name and address of the registrant.

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

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

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

7 Total Calcium (Ca) percent

8 Total Magnesium (Mg) percent

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

13 (A) net weight or volume;

14 (B) brand name;

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

16 (D) directions for application or use;

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

18 ~~(F)~~ name and address of the registrant; and

19 (F) a statement of composition showing the amount of each

20 ingredient, which is the agent in a product primarily responsible for the

21 intended effects using the following format:

1 § 366. TONNAGE FEES

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

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

5 (2) \$0.50 per ton of agricultural fertilizer distributed; and

6 (3) \$30.00 per ton of nonagricultural fertilizer distributed.

7 (b) Persons distributing fertilizer shall report annually on or before January
8 15 for the previous year ending December 31 to the Secretary revealing the
9 amounts of each grade of fertilizer and the form in which the fertilizer was
10 distributed within this State. Each report shall be accompanied with payment
11 and written permission allowing the Secretary to examine the person's books
12 for the purpose of verifying tonnage reports.

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

17 (d) Persons distributing a ~~plant amendment, plant biostimulant, or soil~~
18 ~~amendment~~ beneficial substance in the State shall report annually on or before
19 January 15 for the previous year ending December 31 to the Secretary
20 revealing the amounts of each formulation of ~~plant amendment, plant~~
21 ~~biostimulant, or soil amendment~~ beneficial substance and the form in which

1 the ~~plant amendment, plant biostimulant, or soil amendment~~ beneficial
2 substance was distributed within this State. Each report shall include a written
3 authorization allowing the Secretary to examine the person's books for the
4 purpose of verifying tonnage reports. ~~Plant amendments, plant biostimulants,~~
5 ~~and soil amendments are~~ A beneficial substance is exempt from tonnage fees.

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

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

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

14 (2) All fees collected under subdivision (a)(3) of this section shall be
15 deposited in the Agricultural Water Quality Special Fund created under section
16 4803 of this title.

17 (h) [Repealed.]

18 § 367. INSPECTION; SAMPLING; ANALYSIS

19 For the purpose of enforcing this chapter and determining whether ~~or not~~
20 fertilizers, ~~plant amendment, plant biostimulant, soil amendments~~ beneficial
21 substances, and lime distributed in this State endanger the health and safety of

1 Vermont citizens, the Secretary upon presenting appropriate credentials is
2 authorized:

3 (1) To enter any public or private premises except domiciles during
4 regular business hours and stop and enter any vehicle being used to transport or
5 hold fertilizer, ~~a plant amendment, a plant biostimulant, a soil amendment~~
6 beneficial substances, or lime.

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

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

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

1 ~~plant amendments, plant biostimulants, soil amendments~~ beneficial substances,
2 and lime held for distribution or sale.

3 § 368. MISBRANDING

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

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

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

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

12 (3) It contains unsubstantiated claims.

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

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

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

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

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

5 § 369. ADULTERATION

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

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

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

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

20 (4) it contains heavy metals, radioactive substances, or synthetic
21 organics in amounts sufficient to render it injurious to livestock or human

1 health when applied in accordance with directions for use on the label, or if
2 adequate warning statements or directions for use that may be necessary to
3 protect livestock or human health are not shown on the label.

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

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

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

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

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

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

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1 § 374. SHORT WEIGHT

2 (a) If any fertilizer, ~~plant amendment, plant biostimulant, soil amendment~~
3 beneficial substance, or agricultural liming material is found to be short in net
4 weight, the registrant of the fertilizer, ~~plant amendment, plant biostimulant,~~
5 ~~soil amendment~~ beneficial substance, or lime shall pay a penalty of three times
6 the value of the actual shortage to the 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(f) 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~~ beneficial
19 substance, or lime or refuse a registration application if the provisions of this
20 chapter or the rules adopted under this chapter have been violated, provided

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

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

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

17 * * *

18 § 379. EXCHANGES BETWEEN MANUFACTURERS

19 Nothing in this chapter shall be construed to restrict or impair sales or

20 exchanges of fertilizers, ~~plant amendments, plant biostimulants, or soil~~

21 ~~amendments~~ or beneficial substances to each other by importers,

Nothing in this chapter shall be construed to restrict or impair sales or
exchanges of fertilizers, ~~plant amendments, plant biostimulants, or soil~~
~~amendments or beneficial substances~~ to each other by importers,

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

7 § 380. ADMINISTRATIVE PENALTY

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

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

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

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

19 (4) failed to disclose on the label sources of potentially deleterious
20 components;

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1 regarding the effects of pesticides on pollinators and the methods or best
2 management practices to reduce the impacts of pesticides on pollinators. The
3 annual registration year shall be from December 1 to November 30 of the
4 following year.

5 (2) In addition to the fee required under subdivision (1) of this
6 subsection, a registrant shall pay a fee of \$50.00 per product registration that
7 shall be deposited in the special fund created in section 929 of this title and
8 used to meet the requirements of subdivision 929(a)(6) of this title. This
9 additional fee shall be collected from registrants until such time as an extended
10 producer responsibility program is implemented in the State that fully funds
11 the collection of obsolete and unwanted pesticides.

12 * * *

13 Sec. 3. PESTICIDE DISPOSAL FUNDING STUDY

14 (a)(1) The Secretary of Agriculture, Food and Markets, in consultation with
15 the Commissioner of Environmental Conservation, shall study options for
16 sustainable funding sources to reimburse solid waste management entities for
17 all costs associated with the collection and disposal of unwanted or obsolete
18 pesticides at municipal hazardous waste collection programs and events.

19 (2) The costs to be reimbursed shall include the prorated costs related to
20 facilities, equipment, labor, supplies, maintenance, and collection events.
21 Prorated costs associated with collection events shall include collection event

1 setup fees, environmental service fees, insurance fees, and shipping containers
2 and materials related to the collection and disposal of unwanted or obsolete
3 pesticides.

4 (3) The study shall include consideration of the viability of an extended
5 producer responsibility program for pesticides among other options.

6 (4) The Secretary shall consult with stakeholders.

7 (b) On or before December 15, 2025, the Secretary of Agriculture, Food
8 and Markets shall submit a written report on its findings to the House
9 Committees on Agriculture, Food Resiliency, and Forestry and on
10 Environment and the Senate Committees on Agriculture and on Natural
11 Resources and Energy. The report shall include a recommended funding
12 mechanism that will cover all costs associated with collecting unwanted
13 pesticides through municipal collection programs.

14 * * * Stormwater Permits * * *

15 Sec. 4. STORMWATER PERMITTING; RUTLAND COUNTY

16 AGRICULTURAL SOCIETY, INC.

17 No stormwater impact fee or completion of an offset shall be required for
18 the Rutland County Agricultural Society, Inc. under the three-acre stormwater
19 permit required by 10 V.S.A. § 1264, provided that the Society is registered
20 with the Agency of Agriculture, Food and Markets.

* * * Use Value Appraisal * * *

Sec. 5. 32 V.S.A. § 3752(1) is amended to read:

(1) “Agricultural land” means any land, exclusive of any housesite, in active use to grow hay or cultivated crops, pasture livestock, cultivate trees bearing edible fruit, or produce an annual maple product, and that is 25 acres or more in size, except as provided in this subdivision (~~1~~). Agricultural land shall include buffer zones as defined and required in the Agency of Agriculture, Food and Markets’ Required Agricultural Practices rule adopted under 6 V.S.A. chapter 215. There shall be a presumption that the land is used for agricultural purposes if:

(A) it is owned by a farmer and is part of the overall farm unit;

(B) it is used by a farmer as part of the farmer’s operation under written lease for at least three years; or

(C) it has produced an annual gross income from the sale of farm crops or the equivalent value of donated farm crops in one of two, or three of the five, calendar years preceding of at least:

(i) \$2,000.00 for parcels of up to 25 acres; ~~and~~

(ii) \$75.00 per acre for each acre over 25, with the total income required not to exceed \$5,000.00.

(iii) Exceptions to these income requirements may be made in cases of orchard lands planted to fruit-producing trees, bushes, or vines that are

1 not yet of bearing age. As used in this section, the term “farm crops” also
2 includes animal fiber, cider, wine, and cheese, produced on the enrolled land or
3 on a housesite adjoining the enrolled land, from agricultural products grown on
4 the enrolled land.

5 * * * Heavy Cut Rule * * *

6 Sec. 6. DEPARTMENT OF FORESTS, PARKS AND RECREATION;
7 HEAVY CUT RULE; VALIDITY

8 (a) Notwithstanding 1 V.S.A. § 214 to the contrary:

9 (1) the provisions of 3 V.S.A. § 848(c) (repeal of rules not published in
10 the Vermont Code of Rules as of July 1, 2018) shall be deemed not to have
11 repealed the Department of Forests, Parks and Recreation rule entitled “Intent
12 to Cut Notification Emergency Rules, Standards and Procedures”; and

13 (2) the provisions of the Department of Forests, Parks and Recreation
14 rule entitled “Intent to Cut Notification Emergency Rules, Standards and
15 Procedures” shall be deemed to have continued in full force and effect and
16 remained valid on and after July 1, 2018.

17 (b)(1) All actions taken by the Department of Forests, Parks and Recreation
18 from July 1, 2018 through July 1, 2025 to grant or deny an authorization to
19 proceed with a heavy cut pursuant to the provisions of 10 V.S.A. § 2625 and
20 the Department of Forests, Parks and Recreation rule entitled “Intent to Cut

1 Notification Emergency Rules, Standards and Procedures” are valid and
2 enforceable.

3 (2) As used in this subsection, the term “heavy cut” has the same
4 meaning as in 10 V.S.A. § 2625.

5 (c) On or before July 1, 2026, the Department of Forests, Parks and
6 Recreation shall publish the rule entitled “Intent to Cut Notification
7 Emergency Rules, Standards and Procedures” in the Vermont Code of Rules.

8 * * * Household Hazardous Waste Extended Producer Responsibility * * *

9 Sec. 7. 10 V.S.A. § 7181 is amended to read:

10 § 7181. DEFINITIONS

11 As used in this chapter:

12 * * *

13 (4)(A) “Covered household hazardous product” means a consumer
14 product offered for retail sale that is contained in the receptacle in which the
15 product is offered for retail sale, if the product has any of the following
16 characteristics:

17 (i) the product or a component of the product is a hazardous waste
18 under subchapter 2 of the Vermont Hazardous Waste Management
19 Regulations, regardless of the status of the generator of the hazardous waste; or

20 (ii) the product is a gas cylinder.

1 (B) “Covered household hazardous product” does not mean any of
2 the following:

3 * * *

4 (iv) ~~architectural paint~~ paint products as that term is defined in
5 section 6672 of this title;

6 * * *

7 Sec. 8. 10 V.S.A. § 7182 is amended to read:

8 § 7182. SALE OF COVERED HOUSEHOLD HAZARDOUS PRODUCTS;

9 STEWARDSHIP ORGANIZATION REGISTRATION;

10 MANUFACTURER REGISTRATION

11 (a) Sale prohibited.

12 (1) A manufacturer of a covered household hazardous product shall not
13 sell, offer for sale, or deliver to a retailer for subsequent sale a covered
14 household hazardous product without registering with the stewardship
15 organization pursuant to subsection (c) of this section.

16 (2) Beginning six months after a final decision on the adequacy of a
17 collection plan by the Secretary, a manufacturer of a covered household
18 hazardous product shall not sell, offer for sale, or deliver to a retailer for
19 subsequent sale a covered household hazardous product unless all the
20 following have been met:

1 ~~(1)~~(A) The manufacturer is participating in a stewardship
2 organization implementing an approved collection plan.

3 ~~(2)~~(B) The name of the manufacturer, the manufacturer's brand, and
4 the name of the covered household hazardous product are submitted to the
5 Agency of Natural Resources by a stewardship organization and listed on the
6 stewardship organization's website as covered by an approved collection plan.

7 ~~(3)~~(C) The stewardship organization in which the manufacturer
8 participates has submitted an annual report consistent with the requirements of
9 section 7185 of this title.

10 ~~(4)~~(D) The stewardship organization in which the manufacturer
11 participates has conducted a plan audit consistent with the requirements of
12 subsection 7185(b) of this title.

13 (b) Stewardship organization registration requirements.

14 (1) On or before July 1, 2025 ~~and annually thereafter~~, a stewardship
15 organization shall file a registration form with the Secretary. The Secretary
16 shall provide the registration form to the stewardship organization. The
17 registration form shall include:

18 (A) ~~a list of the manufacturers participating in the stewardship~~
19 ~~organization;~~

20 (B) ~~a list of the brands of each manufacturer participating in the~~
21 ~~stewardship organization;~~

1 ~~(C) a list of the covered household hazardous products of each~~
2 ~~manufacturer participating in the stewardship organization;~~

3 ~~(D) the name, address, and contact information of a person~~
4 ~~responsible for ensuring compliance with this chapter;~~

5 ~~(E)~~ a description of how the stewardship organization meets the
6 requirements of subsection 7184(b) of this title, including any reasonable
7 requirements for participation in the stewardship organization; and

8 ~~(F)~~(B) the name, address, and contact information of a person for a
9 nonmember manufacturer to contact regarding how to participate in the
10 stewardship organization to satisfy the requirements of this chapter.

11 (2) ~~A renewal of a registration without changes may be accomplished~~
12 ~~through notifying the Agency of Natural Resources on a form provided by the~~
13 Agency Beginning on July 1, 2026 and annually thereafter, a stewardship
14 organization shall renew its registration with the Secretary. A renewal
15 registration shall include the following:

16 (A) a list of the manufacturers participating in the stewardship
17 organization;

18 (B) a list of the brands of each manufacturer participating in the
19 stewardship organization;

20 (C) a list of the covered household hazardous products of each
21 manufacturer participating in the stewardship organization;

1 (D) the name, address, and contact information of a person
2 responsible for ensuring compliance with this chapter;

3 (E) a description of how the stewardship organization meets the
4 requirements of subsection 7184(b) of this title, including any reasonable
5 requirements for participation in the stewardship organization; and

6 (F) the name, address, and contact information of a person for a
7 nonmember manufacturer to contact regarding how to participate in the
8 stewardship organization to satisfy the requirements of this chapter.

9 (c) Manufacturer registration. On or before November 1, 2025, a
10 manufacturer of a covered household hazardous product shall register with the
11 stewardship organization in a manner proscribed by the stewardship
12 organization.

13 Sec. 9. 10 V.S.A. § 7183 is amended to read:

14 § 7183. COLLECTION PLANS

15 (a) Collection plan required. ~~Prior to July 1, 2025~~ On or before July 1,
16 2026, any stewardship organization registered with the Secretary as
17 representing manufacturers of covered household hazardous products shall
18 coordinate and submit to the Secretary for review one collection plan for all
19 manufacturers.

20 (b) Collection plan; minimum requirements. ~~Each collection plan shall~~
21 ~~include, at a minimum, all of the following requirements:~~

1 (1) Initial plan. The initial plan shall last for a period not to exceed
2 three years and contain, at a minimum, the following requirements:

3 (A) List of participants. A list of the manufacturers, brands, and
4 products participating in the collection plan and a methodology for adding and
5 removing manufacturers and notifying the Agency of new participants.

6 ~~(2)(B)~~ Free statewide collection of covered household hazardous
7 products. The collection program shall ~~provide~~ reimburse municipalities when
8 a municipality provides for free, convenient, and accessible ~~statewide~~
9 opportunities for the collection from covered entities of covered household
10 hazardous products, including orphan covered products. ~~A stewardship~~
11 ~~organization shall accept all covered household hazardous products collected~~
12 ~~from a covered entity and shall not refuse the collection of a covered~~
13 ~~household hazardous product, including orphan covered household products,~~
14 ~~based on the brand or manufacturer of the covered household hazardous~~
15 ~~product unless specifically exempt from this requirement.~~ The collection
16 program shall also provide for the payment of collection, processing, and end-
17 of-life management of the covered household hazardous products. Collection
18 costs include facility costs, equipment costs, labor, supplies, maintenance,
19 events costs, and event contractor costs, including collection event set-up fees,
20 environmental service fees, insurance fees, and shipping containers and
21 materials.

1 ~~(3) Convenient collection location. The stewardship organization shall~~
2 ~~develop a collection program that allows all municipal household hazardous~~
3 ~~waste collection programs to opt to be a part of the collection plan, including~~
4 ~~collection events and facilities offered by solid waste planning entities. The~~
5 ~~plan shall make efforts to site points of collection equitably across all regions~~
6 ~~of the State to allow for convenient and reasonable access of all Vermonters to~~
7 ~~collection facilities or collection events.~~

8 ~~(4) Public education and outreach. The collection plan shall include an~~
9 ~~education and outreach program that shall include a website and may include~~
10 ~~media advertising, retail displays, articles and publications, and other public~~
11 ~~educational efforts. Outreach and education shall be suitable for the State's~~
12 ~~diverse ethnic populations, through translated and culturally appropriate~~
13 ~~materials, including in language and targeted outreach. Public education and~~
14 ~~outreach should include content to increase meaningful participation by~~
15 ~~environmental justice focus populations as required by 3 V.S.A. chapter 72.~~
16 ~~During the first year of program implementation and two years after adoption~~
17 ~~of the collection plan, each stewardship organization shall carry out a survey of~~
18 ~~public awareness regarding the requirements of the program established under~~
19 ~~this chapter that can identify communities that have disparities in awareness~~
20 ~~and need more outreach. Each stewardship organization shall share the results~~
21 ~~of the public awareness surveys with the Secretary. If multiple stewardship~~

1 ~~organizations are implementing plans approved by the Secretary, the~~
2 ~~stewardship organizations shall coordinate in carrying out their education and~~
3 ~~outreach responsibilities under this subdivision and shall include in their~~
4 ~~annual reports to the Secretary a summary of their coordinated education and~~
5 ~~outreach efforts. The education and outreach program and website shall notify~~
6 ~~the public of the following:~~

7 ~~(A) that there is a free collection program for covered household~~
8 ~~hazardous products;~~

9 ~~(B) the location and hours of operation of collection points and how a~~
10 ~~covered entity can access this collection program;~~

11 ~~(C) the special handling considerations associated with covered~~
12 ~~household hazardous products; and~~

13 ~~(D) source reduction information for consumers to reduce leftover~~
14 ~~covered household products.~~

15 ~~(5) Compliance with appropriate environmental standards. In~~
16 ~~implementing a collection plan, a stewardship organization shall comply with~~
17 ~~all applicable laws related to the collection, transportation, and disposal of~~
18 ~~hazardous waste. A stewardship organization shall comply with any special~~
19 ~~handling or disposal standards established by the Secretary for covered~~
20 ~~household hazardous products or for the collection plan of the manufacturer.~~

1 ~~(6) Method of disposition. The collection plan shall describe how~~
2 ~~covered household hazardous products will be managed in the most~~
3 ~~environmentally and economically sound manner, including following the~~
4 ~~waste management hierarchy. The management of covered household~~
5 ~~hazardous products under the collection plan shall use management activities~~
6 ~~in the following priority order: source reduction, reuse, recycling, energy~~
7 ~~recovery, and disposal. Collected covered household hazardous products shall~~
8 ~~be recycled when technically and economically feasible.~~

9 ~~(7) Performance goals. A collection plan shall include:~~

10 ~~(A) A performance goal for covered household hazardous products~~
11 ~~determined by the number of total participants at collection events and~~
12 ~~facilities listed in the collection plan during a program year divided by the total~~
13 ~~number of households. The number of households shall include seasonal~~
14 ~~households. The calculation methodology for the number of households shall~~
15 ~~be included in the plan.~~

16 ~~(B) At a minimum, the collection performance goal for the first~~
17 ~~approved plan shall be an annual participation rate of five percent of the~~
18 ~~households for every collection program based on the number of households~~
19 ~~the collection program serves. After the initial approved program plan, the~~
20 ~~stewardship organization shall propose performance goals for subsequent~~
21 ~~program plans. The Secretary shall approve the performance goals for the plan~~

1 ~~at least every five years. The stewardship organization shall use the results of~~
2 ~~the most recent waste composition study required under 6604 of this title and~~
3 ~~other relevant factors to propose the performance goals of the collection plan.~~
4 ~~If a stewardship organization does not meet its performance goals, the~~
5 ~~Secretary may require the stewardship organization to revise the collection~~
6 ~~plan to provide for one or more of the following: additional public education~~
7 ~~and outreach, additional collection events, or additional hours of operation for~~
8 ~~collection sites. A stewardship organization is not authorized to reduce or~~
9 ~~cease collection, education and outreach, or other activities implemented under~~
10 ~~an approved plan on the basis of achievement of program performance goals.~~
11 (8)(C) Collection plan funding. The collection plan shall describe how
12 the stewardship organization will fund the implementation of ~~the collection~~
13 ~~plan and collection activities under the plan, including the costs for education~~
14 ~~and outreach, collection, processing, and end-of-life management of the~~
15 ~~covered household hazardous product~~ all municipal collection offered to the
16 public in a base program year. A base program year shall be based on the
17 services provided in calendar year 2024 and any other collection facilities or
18 events approved by the Secretary. Collection costs include facility costs,
19 equipment costs, labor, supplies, maintenance, events costs, and event
20 contractor costs, including collection event set-up fees, environmental service
21 fees, insurance fees, and shipping containers and materials. The collection

1 plan shall include how municipalities will be compensated for all costs
2 attributed to collection of covered household hazardous products. The
3 Secretary shall resolve disputes relating to compensation.

4 (2) Subsequent plans. After the expiration of the initial plan approved
5 by the Secretary, the collection plan shall include, at a minimum, the
6 following:

7 (A) List of participants. A list of the manufacturers, brands, and
8 products participating in the collection plan and a methodology for adding and
9 removing manufacturers and notifying the Agency of new participants.

10 (B) Free statewide collection of covered household hazardous
11 products. The collection program shall provide for free, convenient, and
12 accessible statewide opportunities for the collection from covered entities of
13 covered household hazardous products, including orphan covered products. A
14 stewardship organization shall accept all covered household hazardous
15 products collected from a covered entity and shall not refuse the collection of a
16 covered household hazardous product, including orphan covered household
17 products, based on the brand or manufacturer of the covered household
18 hazardous product unless specifically exempt from this requirement. The
19 collection program shall also provide for the payment of collection, processing,
20 and end-of-life management of the covered household hazardous products.
21 Collection costs include facility costs, equipment costs, labor, supplies,

1 maintenance, events costs, and event contractor costs, including collection
2 event set-up fees, environmental service fees, insurance fees, and shipping
3 containers and materials.

4 (C) Convenient collection location. The stewardship organization
5 shall develop a collection program that allows all municipal household
6 hazardous waste collection programs to opt to be a part of the collection plan,
7 including collection events and facilities offered by solid waste planning
8 entities. The plan shall make efforts to site points of collection equitably
9 across all regions of the State to allow for convenient and reasonable access of
10 all Vermonters to collection facilities or collection events.

11 (D) Public education and outreach. The collection plan shall include
12 an education and outreach program that shall include a website and may
13 include media advertising, retail displays, articles and publications, and other
14 public educational efforts. Outreach and education shall be suitable for the
15 State's diverse ethnic populations, through translated and culturally appropriate
16 materials, including in-language and targeted outreach. Public education and
17 outreach should include content to increase meaningful participation by
18 environmental justice focus populations as required by 3 V.S.A. chapter 72.
19 During the second approved plan, each stewardship organization shall carry
20 out a survey of public awareness regarding the requirements of the program
21 established under this chapter that can identify communities that have

1 disparities in awareness and need more outreach. Each stewardship
2 organization shall share the results of the public awareness surveys with the
3 Secretary. If multiple stewardship organizations are implementing plans
4 approved by the Secretary, the stewardship organizations shall coordinate in
5 carrying out their education and outreach responsibilities under this
6 subdivision (D) and shall include in their annual reports to the Secretary a
7 summary of their coordinated education and outreach efforts. The education
8 and outreach program and website shall notify the public of the following:
9 (i) that there is a free collection program for covered household
10 hazardous products;
11 (ii) the location and hours of operation of collection points and
12 how a covered entity can access this collection program;
13 (iii) the special handling considerations associated with covered
14 household hazardous products; and
15 (iv) source reduction information for consumers to reduce leftover
16 covered household products.
17 (E) Compliance with appropriate environmental standards. In
18 implementing a collection plan, a stewardship organization shall comply with
19 all applicable laws related to the collection, transportation, and disposal of
20 hazardous waste. A stewardship organization shall comply with any special

1 handling or disposal standards established by the Secretary for covered
2 household hazardous products or for the collection plan of the manufacturer.

3 (F) Method of management. The collection plan shall describe how
4 covered household hazardous products will be managed in the most
5 environmentally and economically sound manner, including following the
6 waste-management hierarchy. The management of covered household
7 hazardous products under the collection plan shall use management activities
8 in the following priority order: source reduction, reuse, recycling, energy
9 recovery, and disposal. Collected covered household hazardous products shall
10 be recycled when technically and economically feasible.

11 (G) Performance goals. A collection plan shall include:

12 (i) A performance goal for covered household hazardous products
13 determined by the number of total participants at collection events and
14 facilities listed in the collection plan during a program year divided by the total
15 number of households. The number of households shall include seasonal
16 households. The calculation methodology for the number of households shall
17 be included in the plan.

18 (ii) At a minimum, the collection performance goal for the initial
19 plan approved pursuant to subdivision (1) of this subsection (b) shall be an
20 annual participation rate of seven percent of the households for every
21 collection program based on the number of households the collection program

1 serves. After the initial approved program plan, the stewardship organization
2 shall propose performance goals for subsequent program plans. The Secretary
3 shall approve the performance goals for the plan at least every five years. The
4 stewardship organization shall use the results of the most recent waste
5 composition study required under 6604 of this title and other relevant factors to
6 propose the performance goals of the collection plan. If a stewardship
7 organization does not meet its performance goals, the Secretary may require
8 the stewardship organization to revise the collection plan to provide for one or
9 more of the following: additional public education and outreach, additional
10 collection events, or additional hours of operation for collection sites. A
11 stewardship organization is not authorized to reduce or cease collection,
12 education and outreach, or other activities implemented under an approved
13 plan on the basis of achievement of program performance goals.

14 (H) Collection plan funding. The collection plan shall describe how
15 the stewardship organization will fund the implementation of the collection
16 plan and collection activities under the plan, including the costs for education
17 and outreach, collection, processing, and end-of-life management of the
18 covered household hazardous product. Collection costs include facility costs,
19 equipment costs, labor, supplies, maintenance, events costs, and event
20 contractor costs, including collection event set-up fees, environmental service
21 fees, insurance fees, and shipping containers and materials. The collection

1 plan shall include how municipalities will be compensated for all costs
2 attributed to collection of covered household hazardous products. The
3 Secretary shall resolve disputes relating to compensation.

4 (c) Term of collection plan. A collection plan approved by the Secretary
5 under section 7187 of this title shall have a term not to exceed five years,
6 provided that the stewardship organization remains in compliance with the
7 requirements of this chapter and the terms of the approved collection plan.

8 (d) Collection plan implementation. Stewardship organizations shall
9 implement the collection plan on or before six months after the date of a final
10 decision by the Secretary on the adequacy of the collection plan.

11 Sec. 10. 10 V.S.A. § 7184 is amended to read:

12 § 7184. STEWARDSHIP ORGANIZATIONS

13 (a) Participation in a stewardship organization. A manufacturer shall meet
14 the requirements of this chapter by participating in a stewardship organization
15 that undertakes the responsibilities under sections 7182, 7183, and 7185 of this
16 title.

17 (b) Qualifications for a stewardship organization. To qualify as a
18 stewardship organization under this chapter, an organization shall:

19 (1) commit to assume the responsibilities, obligations, and liabilities of
20 all manufacturers participating in the stewardship organization;

1 of plan administration, the Agency's oversight costs, and an additional
2 hazardous waste reduction assessment of 10 percent of the plan's total cost to
3 be deposited in the Solid Waste Management Assistance Account of the Waste
4 Management Assistance Fund, for the purpose of providing grants to
5 municipalities and small businesses to prevent pollution and reduce the
6 generation of hazardous waste in the State. When determining a
7 manufacturer's assessment under this section, the Agency may allocate costs to
8 a manufacturer of covered household hazardous products based on the sales of
9 covered household hazardous products nationally prorated to the population of
10 Vermont.

11 Sec. 12. 10 V.S.A. § 6621a is amended to read:

12 § 6621a. LANDFILL DISPOSAL REQUIREMENTS

13 (a) In accordance with the following schedule, no person shall knowingly
14 dispose of the following materials in solid waste or in landfills:

15 * * *

16 (12) Covered household hazardous products after July 1, ~~2025~~ 2026.

17 * * *

18 Sec. 13. SOLID WASTE PLAN; FLEXIBILITY

19 (a) Notwithstanding the municipal household hazardous waste (HHW)
20 collection requirements under the State Solid Waste Plan adopted pursuant to
21 10 V.S.A. § 6604, the Secretary of Natural Resources may grant a variance

1 from the requirement to conduct at least two household hazardous waste
2 collection events in that municipality. The variance shall allow a municipality
3 to meet its obligations, as follows:

4 (1) the municipality has partnered with another municipality to allow its
5 residents the ability to access a permanent HHW facility in the same manner as
6 the municipality that operates the permanent HHW facility;

7 (2) the municipality has partnered with a nearby municipality to offer
8 collection events to members in both municipalities; or

9 (3) the municipality has demonstrated that it has made reasonable efforts
10 to provide alternate collection opportunities identified under subdivisions (1)
11 and (2) of this subsection and was unable and that the cost of a collection event
12 is unreasonable. In such circumstances the Secretary of Natural Resources
13 may reduce the required collection events to one per year.

14 (b) This section shall be repealed on July 1, 2027.

15 * * * Paint Product Stewardship Program * * *

16 Sec. 14. 10 V.S.A. chapter 159, subchapter 4 is amended to read:

17 Subchapter 4. Paint Product Stewardship Program

18 § 6671. PURPOSE

19 The purpose of this subchapter is to establish an environmentally sound,
20 cost-effective Paint Product Stewardship Program in the State that will
21 undertake responsibility for the development and implementation of strategies

1 to reduce the generation of postconsumer paint; promote the reuse of
2 postconsumer paint; and collect, transport, and process postconsumer paint,
3 including reuse, recycling, energy recovery, and disposal. The Paint Product
4 Stewardship Program will follow the waste management hierarchy for
5 managing and reducing postconsumer paint in the order as follows: reduce
6 consumer generation of postconsumer paint, reuse, recycle, provide for energy
7 recovery, and dispose. The Paint Product Stewardship Program will provide
8 more opportunities for consumers to manage properly their postconsumer
9 paint, provide fiscal relief for local government in managing postconsumer
10 paint, keep paint out of the waste stream, and conserve natural resources.

11 § 6672. DEFINITIONS

12 As used in this subchapter:

13 (1) “Aerosol coating product” means a pressurized coating product
14 containing pigments or resins dispensed by means of a propellant and
15 packaged and sold in a disposable aerosol container for handheld application,
16 or for use in specialized equipment for ground traffic or marking applications.

17 (2) “Architectural paint” means interior and exterior architectural
18 coatings, including interior or exterior water- and oil-based coatings, primers,
19 sealers, or wood coatings, that are sold in containers of five gallons or less.
20 “Architectural paint” does not mean industrial coatings, original equipment
21 coatings, or specialty coatings.

1 (3) “Coating-related product” means a product used as a paint additive,
2 paint thinner, paint colorant, paint remover, surface sealant, surface
3 preparation, or surface adhesive, and sold for home improvement. “Coating-
4 related product” does not mean original equipment manufacturer products or
5 industrial products.

6 ~~(2)~~(4) “Distributor” means a company that has a contractual relationship
7 with one or more producers to market and sell ~~architectural~~ paint to retailers in
8 Vermont.

9 ~~(3)~~(5) “Energy recovery” means recovery in which all or a part of the
10 solid waste materials are processed in order to use the heat content or other
11 forms of energy of or from the material.

12 ~~(4)~~(6) “Environmentally sound management practices” means policies
13 to be implemented by a producer or a stewardship organization to ensure
14 compliance with all applicable laws and also addressing such issues as
15 adequate record keeping, tracking and documenting the fate of materials within
16 the State and beyond, and adequate environmental liability coverage for
17 professional services and for the operations of the contractors working on
18 behalf of the producer organization.

19 ~~(5)~~(7) “Municipality” means a city, town, or a village.

20 ~~(6) “Paint stewardship assessment” means a one-time charge that is:~~

1 ~~(A) added to the purchase price of architectural paint sold in~~
2 ~~Vermont;~~

3 ~~(B) passed from the producer to the wholesale purchaser to the~~
4 ~~retailer and then to a retail consumer; and~~

5 ~~(C) necessary to cover the cost of collecting, transporting, and~~
6 ~~processing the postconsumer paint managed through the statewide Program.~~

7 (8) “Nonindustrial coating” means arts and crafts paint, automotive
8 refinish paint, driveway sealer, faux finish or glaze, furniture oil, furniture
9 paint, lime wash, lime paint, marine paint, antifouling paint, road and traffic
10 marking paint, two-component paint, wood preservative, fire retardant paint,
11 dry fog paint, chalkboard paint, and conductive paint, sold in containers of five
12 gallons or less for commercial and homeowner use, but does not include
13 coatings purchased for industrial or original equipment manufacturer use.

14 (9)(A) “Paint product” includes:

15 (i) architectural paint;

16 (ii) aerosol coating products;

17 (iii) coating-related products; and

18 (iv) nonindustrial coatings.

19 (B) “Paint product” does not include a health and beauty product.

20 ~~(7)~~(10) “Postconsumer paint” means architectural a paint product and its
21 containers not used and no longer wanted by a purchaser.

1 ~~(8)~~(11) “Producer” means a manufacturer of ~~architectural~~ paint products
2 who sells, offers for sale, or distributes that paint in Vermont under the
3 producer’s own name or brand.

4 ~~(9)~~(12) “Recycling” means any process by which discarded products,
5 components, and by-products are transformed into new usable or marketable
6 materials in a manner in which the original products may lose their identity but
7 does not include energy recovery or energy generation by means of
8 combusting discarded products, components, and by-products with or without
9 other waste products.

10 ~~(10)~~(13) “Retailer” means any person that offers ~~architectural~~ a paint
11 product for sale at retail in Vermont.

12 ~~(11)~~(14) “Reuse” means the return of a product into the economic
13 stream for use in the same kind of application as originally intended, without a
14 change in the product’s identity.

15 ~~(12)~~(15) “Secretary” means the Secretary of Natural Resources.

16 ~~(13)~~(16) “Sell” or “sale” means any transfer of title for consideration,
17 including remote sales conducted through sales outlets, catalogues, or the
18 ~~Internet~~ internet or any other similar electronic means.

19 ~~(14)~~(17) “Stewardship organization” means a nonprofit corporation or
20 nonprofit organization created by a producer or group of producers to

1 implement the Paint Product Stewardship Program required under this
2 subchapter.

3 § 6673. PAINT PRODUCT STEWARDSHIP PROGRAM

4 (a) A producer or a stewardship organization representing producers shall
5 submit a an amended plan for the establishment of a Paint Product Stewardship
6 Program to the Secretary for approval ~~by December 1, 2013~~. The plan shall
7 address the following:

8 (1) Provide a list of participating producers and brands covered by the
9 Program.

10 (2) Provide specific information on the ~~architectural~~ paint products
11 covered under the Program, such as interior or exterior water- and oil-based
12 coatings, primers, sealers, or wood coatings.

13 (3) Describe how the Program proposed under the plan will collect,
14 transport, recycle, and process postconsumer paint products for end-of-life
15 management, including recycling, energy recovery, and disposal, using
16 environmentally sound management practices.

17 (4) Describe the Program and how it will provide for convenient and
18 available statewide collection of postconsumer ~~architectural~~ paint products in
19 urban and rural areas of the State. The producer or stewardship organization
20 shall use the existing household hazardous waste collection infrastructure when
21 selecting collection points for postconsumer ~~architectural~~ paint products. A

1 paint retailer shall be authorized as a paint collection point of postconsumer
2 architectural paint for a Paint Product Stewardship Program if the paint retailer
3 volunteers to act as a ~~paint~~ collection point and complies with all applicable
4 laws, rules, and regulations.

5 (5) Provide geographic information modeling to determine the number
6 and distribution of sites for collection of postconsumer architectural paint
7 based on the following criteria:

8 (A) at least 90 percent of Vermont residents shall have a permanent
9 collection site within a 15-mile radius; and

10 (B) one additional permanent site will be established for every
11 10,000 residents of a municipality and additional sites shall be distributed to
12 provide convenient and reasonably equitable access for residents within each
13 municipality, unless otherwise approved by the Secretary.

14 (6) Establish goals to reduce the generation of postconsumer paint
15 products, to promote the reuse of postconsumer paint products, and for the
16 proper management of postconsumer paint products as practical based on
17 current household hazardous waste program information. The goals may be
18 revised by the producer or stewardship organization based on the information
19 collected for the annual report.

20 (7) Describe how postconsumer paint products will be managed in the
21 most environmentally and economically sound manner, including following

1 the waste-management hierarchy. The management of paint under the
2 Program shall use management activities that promote source reduction, reuse,
3 recycling, energy recovery, and disposal.

4 (8) Describe education and outreach efforts to inform consumers of
5 collection opportunities for postconsumer paint products and to promote the
6 source reduction and recycling of ~~architectural~~ paint products for each of the
7 following: consumers, contractors, and retailers.

8 (b) The producer or stewardship organization shall submit a budget for the
9 Program proposed under subsection (a) of this section, and for any amendment
10 to the plan that would affect the Program's costs. The budget shall include a
11 funding mechanism under which each ~~architectural~~ paint product producer
12 remits to a stewardship organization payment of a paint product stewardship
13 assessment for each ~~container of architectural paint~~ product it sells in this
14 State. Prior to submitting the proposed budget and assessment to the
15 Secretary, the producer or stewardship organization shall provide the budget
16 and assessment to a third-party auditor agreed upon by the Secretary. The
17 third-party auditor shall provide a recommendation as to whether the proposed
18 budget and assessment is cost-effective, reasonable, and limited to covering the
19 cost of the Program. The paint product stewardship assessment shall be added
20 to the cost of all ~~architectural~~ paint products sold in Vermont. To ensure that
21 the funding mechanism is equitable and sustainable, a uniform paint product

1 stewardship assessment shall be established for all ~~architectural~~ paint products
2 sold. The paint stewardship assessment shall be ~~approved by the Secretary and~~
3 ~~shall be sufficient to recover, but not exceed, the costs of the Paint Stewardship~~
4 ~~Program~~ the amount established in section 6681 of this title.

5 (c) ~~Beginning no later than July 1, 2014, or three~~ Six months after approval
6 of the plan for a Paint Product Stewardship Program required under subsection
7 (a) of this section, ~~whichever occurs later,~~ a producer of ~~architectural~~ paint
8 products sold at retail or a stewardship organization of which a producer is a
9 member shall implement the approved plan for a Paint Product Stewardship
10 Program.

11 (d) A producer or a stewardship organization of which a producer is a
12 member shall promote a Paint Product Stewardship Program and provide
13 consumers with educational and informational materials describing collection
14 opportunities for postconsumer paint products Statewide and promotion of
15 waste prevention, reuse, and recycling. The educational and informational
16 program shall make consumers aware that the funding for the operation of the
17 Paint Product Stewardship Program has been added to the purchase price of all
18 ~~architectural~~ paint products sold in the State.

19 (e) A plan approved under this section shall provide for collection of
20 postconsumer ~~architectural~~ paint at no cost to the person from whom the
21 ~~architectural~~ paint product is collected. The program plan also shall provide

1 for the payment of municipalities for collection, processing, and end-of-life
2 management of aerosol coating products, coating-related products, and
3 nonindustrial coatings contained in the receptacle in which the product is
4 offered for retail sale. Collection costs include facility costs, equipment costs,
5 labor, supplies, maintenance, events costs, and event contractor costs,
6 including collection event set-up fees, environmental service fees, insurance
7 fees, and shipping containers and materials.

8 (f) When a plan or amendment to an approved plan is submitted under this
9 section, the Secretary shall make the proposed plan or amendment available for
10 public review and comment for at least 30 days.

11 (g) A producer or paint stewardship organization shall submit to the
12 Secretary for review, in the same manner as required under subsection 6675(a)
13 of this title, an amendment to an approved plan when there is:

- 14 (1) ~~a change to a paint stewardship assessment under the plan;~~
15 ~~(2)~~ an addition to or removal of a category of products covered under
16 the Program; or
17 ~~(3)~~(2) a revision of the product stewardship organization's goals.

18 (h) A plan approved by the Secretary under section 6675 of this title shall
19 have a term not to exceed five years, provided that the producer remains in
20 compliance with the requirements of this chapter and the terms of the approved
21 plan.

1 (i) In addition to the requirements specified in subsection (a) of this
2 section, a stewardship organization shall notify the Secretary in writing within
3 30 days ~~of~~ after any change to:

4 (1) the number of collection sites for postconsumer ~~architectural~~ paint
5 products identified under this section as part of the plan;

6 (2) the producers identified under this section as part of the plan;

7 (3) the brands of ~~architectural~~ paint products identified under this
8 section as part of the plan; and

9 (4) the processors that manage postconsumer ~~architectural~~ paint
10 products identified under this section as part of the plan.

11 (j) Upon submission of a plan to the Secretary under this section, a
12 producer or a stewardship organization shall pay the fee required by 3 V.S.A.
13 § 2822(j)(31). Thereafter, the producer or stewardship organization shall pay
14 the fee required by 3 V.S.A. § 2822(j)(31) annually ~~by~~ on or before July 1 of
15 each year.

16 § 6674. RETAILER RESPONSIBILITY

17 (a) A producer or retailer may not sell or offer for sale ~~architectural~~ a paint
18 product to any person in Vermont unless the producer ~~of that architectural~~
19 ~~paint brand~~ or a stewardship program ~~of which the producer of that~~
20 ~~architectural paint brand is a member~~ that the producer is a member of is
21 implementing an approved plan for a Paint Product Stewardship Program as

1 required by section 6673 of this title. A retailer complies with the
2 requirements of this section if, on the date the ~~architectural~~ paint product was
3 ordered from the producer or its agent, the producer or paint brand is listed on
4 the Agency of Natural Resources' website as a producer or brand participating
5 in an approved plan for a Paint Product Stewardship Program.

6 (b) At the time of sale to a consumer, a producer, a stewardship
7 organization, or a retailer selling or offering ~~architectural~~ paint products for
8 sale shall provide the consumer with information regarding available
9 management options for postconsumer paint products collected through the
10 Paint Product Stewardship Program or a brand of paint being sold under the
11 Program.

12 § 6675. AGENCY RESPONSIBILITY

13 (a)(1) Within 90 days ~~of~~ after receipt of a plan submitted under section
14 6673 of this title, the Secretary shall review the plan and make a determination
15 whether or not to approve the plan. The Secretary shall issue a letter of
16 approval for a submitted plan if:

17 (A) the submitted plan provides for the establishment of a Paint
18 Product Stewardship Program that meets the requirements of subsection
19 6673(a) of this subchapter; and

1 (B) the Secretary determines that the plan:

2 (i) achieves convenient collection for consumers;

3 (ii) educates the public on proper paint product management; and

4 (iii) manages waste paint products in a manner that is

5 environmentally safe and promotes reuse and recycling; ~~and~~

6 ~~(iv) is cost effective.~~

7 (2) If the Secretary does not approve a submitted plan, the Secretary
8 shall issue to the paint product stewardship organization a letter listing the
9 reasons for the disapproval of the plan. If the Secretary disapproves a plan, a
10 paint product stewardship organization intending to sell or continue to sell
11 ~~architectural~~ paint products in the State shall submit a new plan within 60 days
12 ~~of~~ after receipt of the letter of disapproval.

13 ~~(b)(1) The Secretary shall review and approve the stewardship assessment~~
14 ~~proposed by a producer pursuant to subsection 6673(b) of this title. The~~
15 ~~Secretary shall only approve the Program budget and any assessment if the~~
16 ~~applicant has demonstrated that the costs of the Program and any proposed~~
17 ~~assessment are reasonable and the assessment does not exceed the costs of~~
18 ~~implementing an approved plan.~~

19 ~~(2) If an amended plan is submitted under subsection 6673(g) of this~~
20 ~~title that proposes to change the cost of the Program or proposes to change the~~
21 ~~paint stewardship assessment under the plan, the disapproval of any proposed~~

1 ~~new assessment or the failure of an approved new assessment to cover the total~~
2 ~~costs of the Program shall not relieve a producer or stewardship organization~~
3 ~~of its obligation to continue to implement the approved plan under the~~
4 ~~originally approved assessment.~~

5 (e) Facilities solely collecting paint products for the Paint Product
6 Stewardship Program that would not otherwise be subject to solid waste
7 certification requirements shall not be required to obtain a solid waste
8 certification. Persons solely transporting paint for the Paint Product
9 Stewardship Program that would not otherwise be subject to solid waste hauler
10 permitting requirements shall not be required to obtain a solid waste hauler's
11 permit.

12 § 6676. ANTICOMPETITIVE CONDUCT

13 (a) A producer or an organization of producers that manages postconsumer
14 paint products, including collection, transport, recycling, and processing of
15 postconsumer paint products, as required by this subchapter may engage in
16 anticompetitive conduct to the extent necessary to implement the plan
17 approved by the Secretary and is immune from liability for the conduct relating
18 to antitrust, restraint of trade, unfair trade practices, and other regulation of
19 trade or commerce.

1 (b) The activity authorized and the immunity afforded under subsection (a)
2 of this section shall not apply to any agreement among producers or paint
3 product stewardship organizations:

4 (1) establishing or affecting the price of paint products, ~~except for the~~
5 ~~paint stewardship assessment approved under subsection 6675(b) of this title;~~

6 (2) setting or limiting the output or production of paint products;

7 (3) setting or limiting the volume of paint products sold in a geographic
8 area;

9 (4) restricting the geographic area where paint products will be sold; or

10 (5) restricting the customers to whom paint products will be sold or the
11 volume of paint products that will be sold.

12 § 6677. PRODUCER REPORTING REQUIREMENTS

13 ~~No later than October 15, 2015, and annually thereafter, Annually,~~ a
14 producer or a stewardship program of which the producer is a member shall
15 submit to the Secretary a report describing the Paint Product Stewardship
16 Program that the producer or Stewardship Program is implementing as
17 required by section 6673 of this title. At a minimum, the report shall include:

18 (1) a description of the methods the producer or Stewardship Program
19 used to reduce, reuse, collect, transport, recycle, and process postconsumer
20 paint products statewide in Vermont;

1 (1) the postconsumer paint product is collected as a part of a
2 stewardship plan approved under this subchapter; and

3 (2) the collected postconsumer paint product is or includes a paint
4 product that is a hazardous waste as defined and regulated by the Vermont
5 Hazardous Waste Management Rules.

6 (b) When postconsumer paint product is regulated as universal waste under
7 subsection (a) of this section, small and large quantity handlers of the
8 postconsumer paint shall manage the postconsumer paint products in a manner
9 that prevents releases of any universal waste or component of the universal
10 waste to the environment. Postconsumer paint products regulated as universal
11 waste shall, at a minimum, be contained in one or more of the following:

12 (1) a container that remains closed, structurally sound, and compatible
13 with the postconsumer paint products and that lacks evidence of leakage,
14 spillage, or damage that could cause leakage under reasonably foreseeable
15 conditions; or

16 (2) a container that does not meet the requirements of subdivision (1) of
17 this subsection, provided that the unacceptable container is overpacked in a
18 container that meets the requirements of subdivision (1).

19 (c) Containers holding postconsumer paint products that ~~is~~ are regulated as
20 universal waste shall be clearly labeled to clearly identify the contents of the

1 container, such as “Paint-Related Waste,” “Universal Waste Paint,” “Used
2 Paint,” or “Waste Paint.”

3 (d) Unless otherwise provided by statute, the definitions of the Vermont
4 Hazardous Waste Management Rules shall apply to this section.

5 § 6681. PAINT CONSUMER FEES

6 (a) The paint product stewardship assessment shall be sufficient to
7 implement and sustain the Paint Product Stewardship Program. If at any time
8 the stewardship assessments established in this section are not sufficient to
9 implement and sustain the Paint Product Stewardship Program, the Paint
10 Product Stewardship Program shall propose new stewardship assessments that
11 are sufficient to implement and sustain the Program.

12 (b) A retailer shall charge an assessment on paint products, based on
13 current material management costs of the Paint Product Stewardship Program,
14 in the following amounts for architectural paint:

15 (1) <u>Half pint or smaller:</u>	<u>No fee.</u>
16 (2) <u>Greater than a half pint to one gallon:</u>	<u>\$0.65.</u>
17 (3) <u>Greater than one gallon to two gallons:</u>	<u>\$1.35.</u>
18 (4) <u>Greater than two gallons to five gallons:</u>	<u>\$2.45.</u>

1 Sec. 15. IMPLEMENTATION; FEE REPORT

2 (a) The requirements for the sale of paint products under 10 V.S.A. § 6673
3 shall apply to architectural paint beginning on July 1, 2013 and all paint
4 products beginning on July 1, 2026.

5 (b) The requirement under 10 V.S.A. § 6673 for an architectural paint
6 producer to submit a stewardship plan to the Secretary of Natural Resources
7 currently applies to producers of architectural paint as required beginning on
8 July 1, 2013 and shall also apply to producers of paint related products
9 beginning on July 1, 2026.

10 (c) The requirement under 10 V.S.A. § 6677 that an architectural paint
11 producer annually report to the Secretary of Natural Resources currently
12 applies to producers of architectural paint as required beginning on July 1,
13 2013 and shall also apply to producers of paint related products beginning on
14 March 1, 2027.

15 (d) On or before December 15, 2025, the Secretary of Natural Resources
16 shall submit to the Senate Committees on Natural Resources and Energy and
17 on Finance and the House Committees on Environment and on Ways and
18 Means a report recommending a paint consumer fee or fees to be charged for
19 paint products that are not architectural paint.

1 * * * Renewable Power Portfolio * * *

2 Sec. 16. 30 V.S.A. § 8009 is amended to read:

3 § 8009. BASELOAD RENEWABLE POWER PORTFOLIO
4 REQUIREMENT

5 * * *

6 (d) On or before November 1, ~~2027~~ 2028, the Commission shall determine,
7 for the period beginning on November 1, ~~2026~~ 2028 and ending on November
8 1, 2032, the price to be paid to a plant used to satisfy the baseload renewable
9 power portfolio requirement. The Commission shall not be required to make
10 this determination as a contested case under 3 V.S.A. chapter 25. The price
11 shall be the avoided cost of the Vermont composite electric utility system. As
12 used in this subsection, the term “avoided cost” means the incremental cost to
13 retail electricity providers of electric energy or capacity, or both, that, but for
14 the purchase from the plant proposed to satisfy the baseload renewable power
15 portfolio requirement, such providers would obtain from a source using the
16 same generation technology as the proposed plant. For the purposes of this
17 subsection, the term “avoided cost” also includes the Commission’s
18 consideration of each of the following:

19 * * *

1 (k) Collocation and efficiency requirements.

2 (1) The owner of the plant used to satisfy the baseload renewable power
3 portfolio requirement shall cause the plant's overall efficiency to be increased
4 by at least 50 percent relative to the 12-month period preceding July 1, 2022.
5 In achieving this efficiency, the owner shall comply with the requirements of
6 this subsection.

7 (2) On or before ~~July~~ October 1, 2023 ~~2025~~, the owner of the plant shall
8 submit to the Commission and the Department:

9 (A) A signed contract providing for the construction of a facility at
10 the plant that utilizes the excess thermal heat generated at the plant for a
11 beneficial purpose. As used in this subdivision (A), beneficial purpose may
12 include the displacement of fossil fuel use for the sustainable production of a
13 product or service or more efficient or less costly generation of electricity.

14 (B) A certification by a qualified professional engineer that the
15 construction of the facility shall meet the requirement of subdivision (1) of this
16 subsection (k).

17 (3) On or before October 1, ~~2025~~ 2026, the owner of the plant shall
18 submit to the Commission and the Department a certification that the main
19 components of the facility used to meet the requirement of subdivision (1) of
20 this subsection have been manufactured and that the construction plans for the
21 facility have been completed.

1 (4) If the contract and certification required under subdivision (2) of this
2 subsection are not submitted to the Commission and Department on or before
3 ~~July~~ October 1, 2023 2025 or if the certification required under subdivision (3)
4 is not submitted to the Commission and Department on or before October 1,
5 ~~2025~~ 2026, then the obligation under this section for each Vermont retail
6 electricity provider to purchase a pro rata share of the baseload renewable
7 power portfolio requirement shall cease on November 1, ~~2025~~ 2026, and the
8 Commission is not required to conduct the rate determination provided for in
9 subsection (d) of this section.

10 (5) On or before September 1, ~~2026~~ 2027, the Department shall
11 investigate and submit a recommendation to the Commission on whether the
12 plant has achieved the requirement of subdivision (1) of this subsection. If the
13 Department recommends that the plant has not achieved the requirement of
14 subdivision (1) of this subsection, the obligation under this section shall cease
15 on November 1, ~~2026~~ 2027, and the Commission is not required to conduct the
16 rate determination provided for in subsection (d) of this section.

17 (6) After November 1, ~~2027~~ 2028, the owner of the plant shall report
18 annually to the Department and the Department shall verify the overall
19 efficiency of the plant for the prior 12-month period. If the overall efficiency
20 of the plant falls below the requirement of subdivision (1) of this subsection,

1 the report shall include a plan to return the plant to the required efficiency
2 within one year.

3 (7) If, after implementing the plan in subdivision (6) of this subsection,
4 the owner of the plant does not achieve the efficiency required in subdivision
5 (1) of this subsection, the Department shall request that the Commission
6 commence a proceeding to terminate the obligation under this section.

7 * * *

8 * * * Effective Dates * * *

9 Sec. 17. EFFECTIVE DATES

10 (a) This section and Secs. 7–13 (covered household hazardous products),
11 14–15 (paint products), and 16 (renewable power portfolio) shall take effect on
12 passage.

13 (b) The remainder of this act shall take effect on July 1, 2025, except that
14 Sec. 5 (use value appraisal) shall take effect on January 1, 2026.