

1122

2009-2010 Regular Sessions

I N S E N A T E

January 26, 2009

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and
when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to metals
in commercial fertilizers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision (b) of section 146-b of the agriculture and
2 markets law, as added by chapter 695 of the laws of 1974, is amended to
3 read as follows:
4 (b) A commercial fertilizer shall be deemed to be adulterated:
5 (1) if it contains any deleterious or harmful ingredient in sufficient
6 amount to render it injurious to beneficial plant life when applied in
7 accordance with directions for use on the label, or if adequate warning
8 statements or directions for use, which may be necessary to protect
9 plant life are not shown upon the label;
10 (2) IF ITS CONTENTS EXCEED THE STANDARDS PROVIDED IN SECTION ONE
11 HUNDRED FORTY-SIX-G OF THIS ARTICLE;
12 (3) if its composition falls below or differs from that which it is
13 purported to possess by its labelling; or
14 [(3)] (4) if it contains unwanted crop seed or weed seed.
15 S 2. The agriculture and markets law is amended by adding a new
16 section 146-g to read as follows:
17 S 146-G. STANDARDS FOR METALS IN COMMERCIAL FERTILIZERS. (A) COMMER-
18 CIAL FERTILIZERS THAT CONTAIN GUARANTEED AMOUNTS OF PHOSPHATES
19 (P{2}O{5}) AND/OR MICRONUTRIENTS ARE ADULTERATED WHEN THEY CONTAIN
20 METALS IN AMOUNTS GREATER THAN THE MAXIMUM ALLOWABLE CONCENTRATIONS
21 CALCULATED AS SET FORTH IN SUBDIVISIONS (B), (C) AND (D) OF THIS SECTION
22 USING THE FOLLOWING VALUES:
23 (1) ARSENIC, THIRTEEN PARTS PER MILLION FOR EACH PER CENTUM OF PHOSP-
24 HATE (P{2}O{5}) AND ONE HUNDRED TWELVE PARTS PER MILLION FOR EACH PER
25 CENTUM OF MICRONUTRIENTS;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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(2) CADMIUM, TEN PARTS PER MILLION FOR EACH PER CENTUM OF PHOSPHATE (P{2}O{5}) AND EIGHTY-THREE PARTS PER MILLION FOR EACH PER CENTUM OF MICRONUTRIENTS;

(3) COBALT, THREE THOUSAND ONE HUNDRED PARTS PER MILLION FOR EACH PER CENTUM OF PHOSPHATE (P{2}O{5}) AND TWENTY-THREE THOUSAND PARTS PER MILLION FOR EACH PERCENTAGE OF MICRONUTRIENTS, PROVIDED THAT THIS VALUE ONLY APPLIES WHEN THE AMOUNT OF THE MICRONUTRIENT COBALT IS NOT GUARANTEED;

(4) LEAD, SIXTY-ONE PARTS PER MILLION FOR EACH PER CENTUM OF PHOSPHATE (P{2}O{5}) AND FOUR HUNDRED SIXTY-THREE PARTS PER MILLION FOR EACH PER CENTUM OF MICRONUTRIENTS;

(5) MERCURY, ONE PART PER MILLION FOR EACH PER CENTUM OF PHOSPHATE (P{2}O{5}) AND SIX PARTS PER MILLION FOR EACH PER CENTUM OF MICRONUTRIENTS;

(6) MOLYBDENUM, FORTY-TWO PARTS PER MILLION FOR EACH PER CENTUM OF PHOSPHATE (P{2}O{5}) AND THREE HUNDRED PARTS PER MILLION OF MICRONUTRIENTS, PROVIDED THAT THIS VALUE ONLY APPLIES WHEN THE AMOUNT OF THE MICRONUTRIENT MOLYBDENUM IS NOT GUARANTEED;

(7) NICKEL, TWO HUNDRED FIFTY PARTS PER MILLION FOR EACH PER CENTUM OF PHOSPHATE (P{2}O{5}) AND ONE THOUSAND NINE HUNDRED PARTS PER MILLION OF MICRONUTRIENTS;

(8) SELENIUM, TWENTY-SIX PARTS PER MILLION FOR EACH PER CENTUM OF PHOSPHATE (P{2}O{5}) AND ONE HUNDRED EIGHTY PARTS PER MILLION OF MICRONUTRIENTS; AND

(9) ZINC, FOUR HUNDRED TWENTY PARTS PER MILLION FOR EACH PER CENTUM OF PHOSPHATE (P{2}O{5}) AND TWO THOUSAND NINE HUNDRED PARTS PER MILLION OF MICRONUTRIENTS, PROVIDED THAT THIS VALUE ONLY APPLIES WHEN THE AMOUNT OF THE MICRONUTRIENT ZINC IS NOT GUARANTEED.

(B) FOR FERTILIZERS WITH A PHOSPHATE (P{2}O{5}) GUARANTEE, BUT NO MICRONUTRIENT GUARANTEE, THE CALCULATION OF THE MAXIMUM ALLOWABLE CONCENTRATION (PPM) OF EACH METAL SHALL BE MADE BY MULTIPLYING THE PER CENTUM OF GUARANTEED PHOSPHATE (P{2}O{5}) IN THE PRODUCT BY THE APPROPRIATE VALUE. THE MINIMUM VALUE FOR PHOSPHATE (P{2}O{5}) UTILIZED AS A MULTIPLIER SHALL BE SIX.

(C) FOR FERTILIZERS WITH ONE OR MORE MICRONUTRIENT GUARANTEES, BUT NO PHOSPHATE (P{2}O{5}) GUARANTEE, THE CALCULATION OF THE MAXIMUM ALLOWABLE CONCENTRATION (PPM) OF EACH METAL SHALL BE MADE BY MULTIPLYING THE SUM OF THE GUARANTEED PERCENTAGES OF ALL MICRONUTRIENTS, AS DEFINED IN SUBDIVISION (E) OF THIS SECTION, IN THE PRODUCT BY THE APPROPRIATE VALUE IN SUBDIVISION (A) OF THIS SECTION. THE MINIMUM VALUE FOR MICRONUTRIENTS UTILIZED AS A MULTIPLIER SHALL BE ONE.

(D) FOR FERTILIZERS WITH BOTH A PHOSPHATE (P{2}O{5}) AND A MICRONUTRIENT GUARANTEE, THE CALCULATION OF THE MAXIMUM ALLOWABLE CONCENTRATION OF EACH METAL SHALL BE MADE BY:

(1) MULTIPLYING THE GUARANTEED PER CENTUM OF PHOSPHATE (P{2}O{5}) BY THE APPROPRIATE VALUE IN SUBDIVISION (A) OF THIS SECTION. THE MINIMUM VALUE FOR PHOSPHATE (P{2}O{5}) UTILIZED AS A MULTIPLIER SHALL BE SIX;

(2) MULTIPLYING THE SUM OF THE GUARANTEED PERCENTAGES OF THE MICRONUTRIENTS BY THE APPROPRIATE VALUE IN SUBDIVISION (A) OF THIS SECTION. THE MINIMUM VALUE FOR MICRONUTRIENTS UTILIZED AS A MULTIPLIER SHALL BE ONE; AND

(3) UTILIZING THE HIGHER OF THE TWO RESULTING VALUES AS THE MAXIMUM ALLOWABLE CONCENTRATION (PPM) OF EACH METAL.

(E) FOR THE PURPOSES OF THIS SECTION, MICRONUTRIENTS ARE THOSE PLANT NUTRIENTS, OTHER THAN THE PRIMARY AND THE SECONDARY PLANT NUTRIENTS, THAT ARE ESSENTIAL FOR BOTH PLANT GROWTH AND DEVELOPMENT AND ARE ADDED

1 TO CERTAIN FERTILIZERS TO IMPROVE CROP PRODUCTION AND/OR QUALITY. THE
2 PRIMARY PLANT NUTRIENTS ARE NITROGEN, PHOSPHORUS AND POTASSIUM. THE
3 SECONDARY PLANT NUTRIENTS ARE CALCIUM, MAGNESIUM, AND SULFUR. THE MICRO-
4 NUTRIENTS ARE BORON, CHLORINE, COBALT, COPPER, IRON, MANGANESE, MOLYBDE-
5 NUM, SODIUM AND ZINC.

6 (F) THE STANDARDS SET FORTH IN THIS SECTION ARE NOT APPLICABLE TO THE
7 EVALUATION OF HORTICULTURAL GROWING MEDIA CLAIMING NUTRIENTS, BUT ARE
8 APPLICABLE TO THE SOURCES OF THE NUTRIENTS ADDED TO GROWING MEDIA.

9 S 3. This act shall take effect on the first of January next succeed-
10 ing the date on which it shall have become a law. Effective immediate-
11 ly, the addition, amendment and/or repeal of any rule or regulation
12 necessary for the implementation of this act on its effective date are
13 authorized and directed to be made and completed on or before such
14 effective date.