A BILL FOR AN ACT

CONCERNING THE EXPANSION OF AGRICULTURAL CHEMICAL MANAGEMENT PLANS TO PROTECT SURFACE WATER.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

Under current law, the commissioner of agriculture is responsible for the management of the use of agricultural chemicals to protect groundwater, and the commissioner adopts rules establishing agricultural management plans for this purpose. The bill expands the scope of the commissioner's agricultural management plans to include the protection of state waters, which includes surface and subsurface waters.
Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 25-8-103, amend (1.1), (1.2), and (1.3) as follows:

25-8-103. Definitions. As used in this article 8, unless the context otherwise requires:

(1.1) "Agricultural management area" means a designated geographic area defined by the commissioner of agriculture that includes natural or man-made features where there is a significant risk of contamination or pollution of groundwater STATE WATERS from agricultural activities conducted at or near the land surface.

(1.2) "Agricultural management plan" means any activity, procedure, or practice adopted as a rule by the commissioner of agriculture pursuant to article 4 of title 24, C.R.S., in consultation with the Colorado cooperative extension service ESTABLISHED PURSUANT TO PART 7 OF ARTICLE 31 OF TITLE 23 and the water quality control division, to prevent or remedy the introduction of agricultural chemicals into groundwater STATE WATERS to the extent technically and economically practical.

(1.3) "Best management practices" means any voluntary activity, procedure, or practice established by the department of agriculture, in consultation with the Colorado cooperative extension service ESTABLISHED PURSUANT TO PART 7 OF ARTICLE 31 OF TITLE 23 and the water quality control division, to prevent or remedy the introduction of agricultural chemicals into groundwater STATE WATERS to the extent technically and economically practical.

SECTION 2. In Colorado Revised Statutes, 25-8-205.5, amend
(1), (3)(d), (3)(g), and (5); and repeal (2) as follows:

25-8-205.5. Pollution from agricultural chemicals - rules.

(1) **Legislative declaration.** The general assembly hereby declares that

the public policy of this state is to protect groundwater STATE WATERS

and the environment from impairment or degradation due to the improper

use of agricultural chemicals while allowing for their proper and correct

use, in particular, to provide for the management of agricultural chemicals

to prevent, minimize, and mitigate their presence in groundwater STATE

WATERS and to provide for the education and training of agricultural

chemical applicators and the general public regarding groundwater

**protection** THE PROTECTION OF STATE WATERS, agricultural chemical use,

and the use of other agricultural methods.

(2) **Definition.** For the purpose of this section only,

"groundwater" means any subsurface water in a zone of saturation which

is or can be brought to the surface of the ground or to surface waters

through wells, springs, seeps, or other discharge areas.

(3) **Powers and duties of the commissioner of agriculture.**

(d) If the commissioner determines that the use of best management

practices is ineffective or insufficient to prevent or mitigate the pollution

of groundwater STATE WATERS, the commissioner may require, by rule

and regulation adopted pursuant to article 4 of title 24, C.R.S., the use of

agricultural management plans.

(g) The commissioner shall perform the monitoring specified in

subsection (5) of this section. The commissioner shall enter into an

agreement with the department of public health and environment to assist

in the identification of agricultural management areas and to perform

analysis, interpretation, and reporting of groundwater STATE WATERS
monitoring data supplied by the commissioner.

(5) **Monitoring.** Pursuant to the commissioner's duties as set forth in any contract authorized in paragraph (g) of subsection (3) of this section, the commissioner shall identify agricultural management areas as defined in section 25-8-103(1.1) and shall conduct monitoring programs to determine:

(a) The presence of any agricultural chemical in **groundwater** that meets or exceeds any water quality standard applicable under this article or that has a reasonable likelihood of meeting or exceeding any such standard; or

(b) The likelihood that an agricultural chemical will enter the **groundwater** based upon the existence of sufficient, valid scientific data that reasonably predict the behavior of a particular agricultural chemical in the soil.

**SECTION 3.** In Colorado Revised Statutes, 35-1-106.3, amend (3) as follows:

35-1-106.3. **Plant health, pest control, and environmental protection cash fund - creation.** (3) The plant health, pest control, and environmental protection cash fund shall consist of any fees, fines, or penalties collected pursuant to articles 4, 9, 10, 11, 11.5, 25, 26, 27, and 27.5 of this title; any fees, fines, or penalties collected pursuant to article 8 of title 25; any fees collected under article 12 of this title for the purpose of funding groundwater protection activities; and all revenues collected in pursuit of the department's efforts to conduct biological pest control. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of implementing,
administering, and enforcing the provisions of articles 4, 9, 10, 11, 11.5, 25, 26, 27, and 27.5 of this title TITLE 35 and of article 8 of title 25; C.R.S.; except that any appropriation for the indirect costs of issuing chemigation permits pursuant to section 35-11-106 shall MUST not exceed the amount specified in section 35-11-106 (3)(b). Any money MONEY from the fund that are IS allocated for biological pest control shall MUST supplement any general fund money appropriated for that purpose.

SECTION 4. In Colorado Revised Statutes, 35-9-118, amend (3)(a) as follows:

(3)(a) The commissioner shall promulgate rules, pursuant to article 4 of title 24, C.R.S., to determine the annual registration fee for each pesticide registered. For the purpose of funding the department of agriculture's groundwater STATE WATERS protection efforts, any such fee shall MUST include an increment as approved by the agricultural commission, which increment, along with the remainder of the fee, shall be collected by the commissioner and transmitted to the state treasurer, who shall credit the same to the plant health, pest control, and environmental protection cash fund created in section 35-1-106.3.

SECTION 5. In Colorado Revised Statutes, 35-12-106, amend (1) as follows:

35-12-106. Distribution fees. (1) All registrants, except those who package only in containers of ten pounds or less, shall pay the commissioner a distribution fee as established by the commission for all commercial fertilizers, soil conditioners, or plant amendments distributed in this state. For the purpose of funding the department's groundwater
STATE WATERS protection efforts, an additional fee per ton of commercial fertilizer shall be paid to the commissioner as established by the commission. This increment per ton of commercial fertilizer shall be collected by the commissioner and transmitted to the state treasurer, who shall credit the same to the plant health, pest control, and environmental protection cash fund created in section 35-1-106.3.

SECTION 6. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.