

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 19-0936.01 Thomas Morris x4218

SENATE BILL 19-186

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A BILL FOR AN ACT

101 **CONCERNING THE EXPANSION OF AGRICULTURAL CHEMICAL**
102 **MANAGEMENT PLANS TO PROTECT SURFACE WATER, AND, IN**
103 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
May 1, 2019

HOUSE
2nd Reading Unamended
April 30, 2019

SENATE
3rd Reading Unamended
April 24, 2019

SENATE
Amended 2nd Reading
April 23, 2019

of state waters, which includes surface and subsurface waters.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 25-8-103, **amend**
3 (1.1), (1.2), and (1.3) as follows:

4 **25-8-103. Definitions.** As used in this article 8, unless the context
5 otherwise requires:

6 (1.1) "Agricultural management area" means a designated
7 geographic area defined by the commissioner of agriculture that includes
8 natural or man-made features where there is a significant risk of
9 contamination or pollution of ~~groundwater~~ STATE WATERS from
10 agricultural activities conducted at or near the land surface.

11 (1.2) "Agricultural management plan" means any activity,
12 procedure, or practice adopted as a rule by the commissioner of
13 agriculture pursuant to article 4 of title 24, ~~C.R.S.~~, in consultation with
14 the Colorado cooperative extension service ESTABLISHED PURSUANT TO
15 PART 7 OF ARTICLE 31 OF TITLE 23 and the water quality control division,
16 to prevent or remedy the introduction of agricultural chemicals into
17 ~~groundwater~~ STATE WATERS to the extent technically and economically
18 practical.

19 (1.3) "Best management practices" means any voluntary activity,
20 procedure, or practice established by the department of agriculture, in
21 consultation with the Colorado cooperative extension service
22 ESTABLISHED PURSUANT TO PART 7 OF ARTICLE 31 OF TITLE 23 and the
23 water quality control division, to prevent or remedy the introduction of
24 agricultural chemicals into ~~groundwater~~ STATE WATERS to the extent
25 technically and economically practical.

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

3 **25-8-205.5. Pollution from agricultural chemicals - rules.**

4 (1) **Legislative declaration.** The general assembly hereby declares that
5 the public policy of this state is to protect ~~groundwater~~ STATE WATERS
6 and the environment from impairment or degradation due to the improper
7 use of agricultural chemicals while allowing for their proper and correct
8 use, in particular, to provide for the management of agricultural chemicals
9 to prevent, minimize, and mitigate their presence in ~~groundwater~~ STATE
10 WATERS and to provide for the education and training of agricultural
11 chemical applicators and the general public regarding ~~groundwater~~
12 ~~protection~~ THE PROTECTION OF STATE WATERS, agricultural chemical use,
13 and the use of other agricultural methods.

14 (2) **Definition.** ~~For the purpose of this section only,~~
15 ~~"groundwater" means any subsurface water in a zone of saturation which~~
16 ~~is or can be brought to the surface of the ground or to surface waters~~
17 ~~through wells, springs, seeps, or other discharge areas.~~

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

19 (d) If the commissioner determines that the use of best management
20 practices is ineffective or insufficient to prevent or mitigate the pollution
21 of ~~groundwater~~ STATE WATERS, the commissioner may require, by rule
22 ~~and regulation~~ adopted pursuant to article 4 of title 24, ~~C.R.S.~~, the use of
23 agricultural management plans.

24 (g) The commissioner shall perform the monitoring specified in
25 subsection (5) of this section. The commissioner shall enter into an
26 agreement with the department of public health and environment to assist
27 in the identification of agricultural management areas and to perform

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

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

8 (a) The presence of any agricultural chemical in ~~groundwater~~
9 STATE WATERS at a level ~~which~~ THAT meets or exceeds any water quality
10 standard applicable under this ~~article~~ ARTICLE 8 or ~~which~~ THAT has a
11 reasonable likelihood of meeting or exceeding any such standard; or

12 (b) The likelihood that an agricultural chemical will enter the
13 ~~groundwater~~ STATE WATERS, based upon the existence of sufficient, valid
14 scientific data ~~which~~ THAT reasonably predict the behavior of a particular
15 agricultural chemical in the soil.

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

18 **35-1-106.3. Plant health, pest control, and environmental**
19 **protection cash fund - creation.** (3) The plant health, pest control, and
20 environmental protection cash fund ~~shall consist~~ CONSISTS of any fees,
21 fines, or penalties collected pursuant to articles 4, 9, 10, 11, 11.5, 25, 26,
22 27, and 27.5 of this ~~title~~ TITLE 35; any fees, fines, or penalties collected
23 pursuant to article 8 of title 25; ~~C.R.S.~~; any fees collected under article 12
24 of this ~~title~~ TITLE 35 for the purpose of funding ~~groundwater~~ STATE
25 WATERS protection activities; and all revenues collected in pursuit of the
26 department's efforts to conduct biological pest control. The ~~moneys~~
27 MONEY in the fund ~~shall be~~ IS subject to annual appropriation by the

1 general assembly for the direct and indirect costs of implementing,
2 administering, and enforcing ~~the provisions of~~ articles 4, 9, 10, 11, 11.5,
3 25, 26, 27, and 27.5 of this ~~title~~ TITLE 35 and of article 8 of title 25;
4 ~~C.R.S.~~; except that any appropriation for the indirect costs of issuing
5 chemigation permits pursuant to section 35-11-106 ~~shall~~ MUST not exceed
6 the amount specified in section 35-11-106 (3)(b). Any ~~moneys~~ MONEY
7 from the fund that ~~are~~ IS allocated for biological pest control ~~shall~~ MUST
8 supplement any general fund ~~moneys~~ MONEY appropriated for that
9 purpose.

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

12 **35-9-118. Powers and duties of the commissioner - rules.**

13 (3) (a) The commissioner shall promulgate rules, pursuant to article 4 of
14 title 24, ~~C.R.S.~~, to determine the annual registration fee for each pesticide
15 registered. For the purpose of funding the department of agriculture's
16 ~~groundwater~~ STATE WATERS protection efforts, ~~any such~~ THE fee ~~shall~~
17 MUST include an increment as approved by the agricultural commission
18 IN CONSULTATION WITH THE ADVISORY COMMITTEE CREATED IN SECTION
19 35-10-125, which increment, along with the remainder of the fee, shall be
20 collected by the commissioner and transmitted to the state treasurer, who
21 shall credit the same to the plant health, pest control, and environmental
22 protection cash fund created in section 35-1-106.3.

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

25 **35-12-106. Distribution fees.** (1) All registrants, except those
26 who package only in containers of ten pounds or less, shall pay the
27 commissioner a distribution fee as established by the commission for all

1 commercial fertilizers, soil conditioners, or plant amendments distributed
2 in this state. For the purpose of funding the department's ~~groundwater~~
3 STATE WATERS protection efforts, an additional fee per ton of commercial
4 fertilizer shall be paid to the commissioner as established by the
5 commission. This increment per ton of commercial fertilizer shall be
6 collected by the commissioner and transmitted to the state treasurer, who
7 shall credit the same to the plant health, pest control, and environmental
8 protection cash fund created in section 35-1-106.3.

9 **SECTION 6. Appropriation.** (1) For the 2019-20 state fiscal
10 year, \$239,592 is appropriated to the department of agriculture. This
11 appropriation is from the plant health, pest control, and environmental
12 protection cash fund created in section 35-1-106.3 (1), C.R.S. To
13 implement this act, the department may use this appropriation as follows:

14 (a) \$238,592 for the conservation services division, which amount
15 is based on an assumption that the division will require an additional 0.6
16 FTE; and

17 (b) \$1,000 for vehicle lease payments.

18 (2) For the 2019-20 state fiscal year, \$21,875 is appropriated to
19 the department of public health and environment. This appropriation is
20 from reappropriated funds received from the department of agriculture
21 under subsection (1)(a) of this section and is based on an assumption that
22 the department of public health and environment will require an
23 additional 0.2 FTE. To implement this act, the department of public
24 health and environment may use this appropriation for clean water
25 program costs.

26 (3) For the 2019-20 state fiscal year, \$1,000 is appropriated to the
27 department of personnel. This appropriation is from reappropriated funds

1 received from the department of agriculture under subsection (1)(b) of
2 this section. To implement this act, the department of personnel may use
3 this appropriation to provide vehicles to the department of agriculture.

4 **SECTION 7. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
6 the expiration of the ninety-day period after final adjournment of the
7 general assembly (August 2, 2019, if adjournment sine die is on May 3,
8 2019); except that, if a referendum petition is filed pursuant to section 1
9 (3) of article V of the state constitution against this act or an item, section,
10 or part of this act within such period, then the act, item, section, or part
11 will not take effect unless approved by the people at the general election
12 to be held in November 2020 and, in such case, will take effect on the
13 date of the official declaration of the vote thereon by the governor.

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