

## CHAPTER 422

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**AGRICULTURE**


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## SENATE BILL 19-186

BY SENATOR(S) Donovan and Coram, Crowder, Pettersen;  
 also REPRESENTATIVE(S) Arndt and Catlin, Bird, Bockenfeld, Buentello, Cutter, Duran, Esgar, Exum, Gonzales-Gutierrez,  
 Hansen, Hooton, Jackson, McKean, McLachlan, Michaelson Jenet, Roberts, Snyder, Titone, Valdez D., Weissman, Will, Becker.

## AN ACT

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

*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

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

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)~~ SUBSECTION (3)(g) 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~~ STATE WATERS at a level ~~which~~ THAT meets or exceeds any water quality standard applicable under this ~~article~~ ARTICLE 8 or ~~which~~ THAT has a reasonable likelihood of meeting or exceeding any such standard; or

(b) The likelihood that an agricultural chemical will enter the ~~groundwater~~ STATE WATERS, based upon the existence of sufficient, valid scientific data ~~which~~ 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~~ CONSISTS 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~~ TITLE 35; any fees, fines, or penalties collected pursuant to article 8 of title 25; ~~C.R.S.;~~ any fees collected under article 12 of this ~~title~~ TITLE 35 for the purpose of funding ~~groundwater~~ STATE WATERS protection activities; and all revenues collected in pursuit of the department's efforts to conduct biological pest control. The ~~moneys~~ MONEY in the fund ~~shall be~~ IS 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 ~~moneys~~ MONEY from the fund that ~~are~~ IS allocated for biological pest control ~~shall~~ MUST supplement any general fund ~~moneys~~ MONEY appropriated for that purpose.

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

**35-9-118. Powers and duties of the commissioner - rules.** (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~~ THE fee ~~shall~~ MUST include an increment as approved by the agricultural commission IN CONSULTATION WITH THE ADVISORY COMMITTEE CREATED IN SECTION 35-10-125, 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. Appropriation.** (1) For the 2019-20 state fiscal year, \$239,592 is appropriated to the department of agriculture. This appropriation is from the plant health, pest control, and environmental protection cash fund created in section 35-1-106.3 (1), C.R.S. To implement this act, the department may use this appropriation as follows:

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

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

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

(3) For the 2019-20 state fiscal year, \$1,000 is appropriated to the department of personnel. This appropriation is from reappropriated funds received from the department of agriculture under subsection (1)(b) of this section. To implement this act, the department of personnel may use this appropriation to provide vehicles to the department of agriculture.

**SECTION 7. 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.

Approved: June 3, 2019