

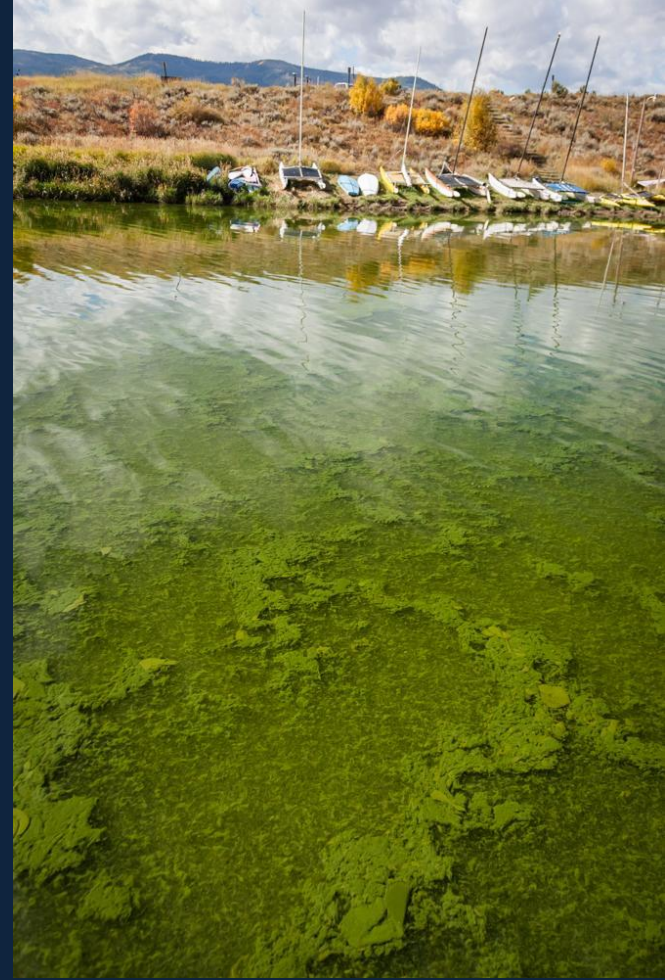


Colorado Nutrients Management Lakes Criteria



Overview

- Lakes Nutrients RMH - April 2023
- Challenges
- Lessons
- Successes
- Advice



Where We Are Today

- Reg 31.17, Reg. 85, Policy 17-1
- Basin Regs before April RMH:
 - TP and Chla above QDs (lakes and streams)
 - Direct Use Water Supply (DUWS) use subclassification
- 2023 RMH - progress for lakes
 - Reg 31 TVS
 - Basin Regs
 - Added TN above QDs (lakes)
 - Chl a - statewide



Overview of 2023 Proposal

Reg. 85 - Statewide Nutrients Control Reg

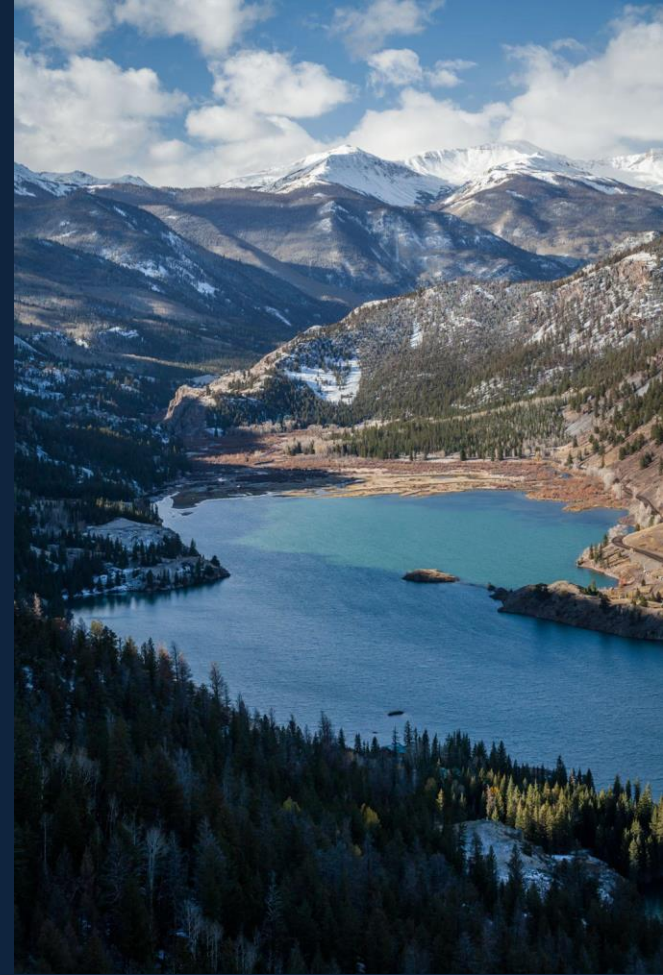
- Corrections and clarifications

Reg. 31 - Statewide Surface Water Reg

- Revised TN and TP TVS for lakes

Regs. 32-38 - Basin Specific Regs.

- Chla TVS statewide
 - Lakes, reservoirs, rivers, streams with Aquatic Life, Recreation, DUWS uses
- Revised TP on lakes above QDs where TP was previously adopted and add revised TN
- Modified Proposal: delay adoption of TN and TP on lakes with DUWS/Swim Beach below QD (2027 with streams)



What do the criteria represent?

- Table Value Standards
 - 40 CFR 131.6(c)
 - 31.7(1)(b)(i)
- Balance competing interests
- Target trophic condition
 - COLD: mesotrophic/eutrophic boundary (Chl *a* = 8 µg/L)
 - WARM: below eutrophic/hypereutrophic boundary (Chl *a* = 20 µg/L)



Lakes Nutrients: Challenges



Challenges

- Costs and Benefits
- Implementation
- Stakeholders
- Facilities
- Legislature / Gov's office
- Technical engagement
- Delayed delayed implementation
- Water Rights
- Treatment alternatives
- Technical, managerial, financial planning
- Site Specific Standards



2023 Rulemaking - Addtl. Analyses

Cost-Benefit Analysis, Regulatory Analysis, Water Rights

- Costs and Benefits
 - June 2022 requests
 - History
 - Statutory factors and scope
 - 2023 CBA and RA takeaways
- Water Rights
 - Statutory requirements
 - Party requests, consultation request
 - MOU
 - Key points from the State Engineer's Office (SEO) and Colorado Water Conservation Board (CWCB)'s response



Lakes Nutrients: Lessons



Lessons

- Drill down into implementation first (or in parallel) when possible
- Cost Benefit Analysis Lessons
- Stakeholder Engagement & Expectations (success in many eyes but still working to make everyone happy - draft criteria release)
- Outreach to disproportionately impacted communities
 - Confusion on cost impacts and environmental justice (reducing protection because of affordability is not environmental justice)



Modified Regs. 31-38 Proposal to Delay Impacts on Permittees

- **Reg. 31:** Chla, TN and TP as proposed
- **Basin Regs. 32-38:** Delay adoption of TN and TP below QDs
- Division committed to addressing implementation challenges and feasibility
 - Was already included in 2027 Roadmap for 2023+, but not emphasized
- Delaying adoption of nutrient standards below QDs will allow for increased focus on this need



Permitting with Proposed Delay

- Permits issued **before 2028** for discharges to segments with delayed adoption of TN and TP:
 - Will not have WQBELs or associated compliance scheduled based on 31.17 TN and TP



TMDLs and Assessment - Not Changed with Proposed Delay

- Standards planned for adoption in 2027 (TN and TP below QD)
 - No actions until 2028, and likely much later, for TN and TP
- Standards adopted in this hearing
 - Commission would first consider listings for these new and revised standards in 2027
 - TMDLs and potential consideration in permits would not be expected to occur until 2028 and likely much later



Successes

- Progress on Colorado's WQ Roadmap
 - Table value standards now available for lakes
 - First adoption of TN (for some headwater lakes)
- Robust Outreach and Stakeholder Process
 - TAC strong
- Cost Benefit Analysis
- Strong messaging on EJ, need for progress, need for science based standards



Progress on WQ Roadmap

- Lakes Criteria Adopted
- Plan for adoption in all lakes and streams in 2027
- Reinforced Focus on implementation and feasibility challenges
 - Workgroup starting in 2024



Outreach

- Roadmap meetings
- Webinar series
- Watershed groups
- CLRMA
- Town Halls
- Office hours
- “Pre-TACs”



Stakeholder Process

- Starting late 2023/early 2024
 - Work on treatment challenges and feasibility, including addressing other consequences (e.g., water loss, greenhouse gas emissions)
 - Discuss the various regulatory tools available, including DSVs, site-specific standards, and others
 - Discuss impacts on disproportionately impacted and disadvantaged communities
- Propose a commission information hearing before 2027 standards hearings
 - Goal is for us all to have a better understanding of feasible treatment and actual costs



Technical Advisory Committee (TAC)

- Technical individuals
- 12 meetings (Dec 2019 → Dec 2022)
- Notes and materials posted publicly
- Wider engagement
 - Google form for questions
 - Regular updates at quarterly Roadmap workgroup meetings
 - Pre-TAC



CBA/RA: comprehensive, sound

- The CBA/RA analyses are comprehensive, sound, and in compliance with APA and WQCA:
 - Cost-benefit ratio is not whole picture
 - Misses full benefits to drinking water, recreation, tourism, private property
 - Approach used for 2023 CBA does not underestimate costs (TIN vs. TN)



CBA/RA: benefits not fully included in the benefit to cost ratio

Table 5. Summary of Semi-quantitative and Qualitative Benefits

Benefit	Relative Benefit Contribution
Potable Drinking Water (protection of public health, increased customer satisfaction from improved taste and odor, and decreased likelihood of DBP formation)	Substantial ²⁹
Reduction in public water body closures and risks to public health from mitigation of harmful algal blooms	Moderate
Additional recreation benefits (hiking, picnicking, wildlife watching)	Moderate ³⁰
Agriculture	Minimal ³¹ for both, TP less
Environmental Justice	Unknown
Private Property Value	Substantial lakeside ³²
Job Creation	Unknown
Indirect Benefits to Enhanced Treatment	Moderate
Intrinsic Value Benefits	Unknown ³³



Advice



Proposal Makes Progress

“You don’t start by delaying it.
You start by starting it.”

- Dave Moon



Questions/Discussion

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