

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

LLS NO. R17-0714.01 Thomas Morris x4218

SJR17-013

SENATE SPONSORSHIP

Coram,

HOUSE SPONSORSHIP

(None),

Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

SENATE JOINT RESOLUTION 17-013

101 CONCERNING THE ENCOURAGEMENT OF STAKEHOLDER INPUT WITH
102 SUBSEQUENT LEGISLATIVE REVIEW PRIOR TO THE
103 IMPLEMENTATION OF ADDITIONAL NUTRIENT DISCHARGE
104 CONTROLS.

1 WHEREAS, While phosphorus and nitrogen (collectively,
2 "nutrients") are not toxic when discharged into surface waters and some
3 levels of phosphorus and nitrogen are beneficial to the environment, there
4 can be negative impacts on aquatic life and recreational uses from
5 excessive concentrations of nutrients in a particular stream segment,
6 depending on many site-specific factors; and

7 WHEREAS, In 2012, the Water Quality Control Commission
8 (Commission) adopted a two-pronged approach to address concentrations
9 of nutrients in Colorado surface waters by adopting: Regulation #85, a

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

SENATE
Amended Final Rdg
March 22, 2017

1 new statewide nutrients control regulation, which requires the largest
2 municipal and industrial dischargers of nutrients to adopt
3 technology-based treatment requirements; and Regulation #31, which
4 establishes longer-term water quality goals ("interim numeric values") for
5 nutrients; and

6 WHEREAS, The Commission reasoned that because
7 comprehensive nutrient reductions could potentially be a decades-long
8 process, a stepwise approach through implementation of
9 technology-based nutrient controls under Regulation #85 and associated
10 water quality monitoring was appropriate and would result in more
11 expeditious control of nutrients in the immediate future; and

12 WHEREAS, This approach is consistent with the federal
13 Environmental Protection Agency's proposed "Framework for State
14 Nutrient Reductions" as outlined in Acting Assistant Administrator Nancy
15 Stoner's March 16, 2011, memorandum to the regional administrators;
16 and

17 WHEREAS, The Commission stated that its purpose in adopting
18 interim numeric values for nutrients in Regulation #31 was "to emphasize
19 its intent to undertake further review of the evolving science regarding
20 nutrients before applying numerical nutrient standards broadly to surface
21 waters throughout Colorado"; and

22 WHEREAS, The results of the Water Quality Control Division's
23 (Division) 2011 study show that the domestic and industrial facility
24 treatment costs to achieve the interim numeric values are significantly
25 higher than the costs to achieve the effluent limits in Regulation #85 and
26 the benefits are challenging to quantify; and

27 WHEREAS, Approximately 45 of the state's largest domestic and
28 industrial dischargers are beginning to install nutrient treatment
29 technology to meet Regulation #85 requirements; and

30 WHEREAS, Upgrades required under Regulation #85 will result
31 in domestic and industrial treatment facilities discharging improved
32 effluent, but because these improvements have not yet been fully
33 implemented, additional time is required to fully document and evaluate
34 water quality improvements in receiving and downstream water bodies;
35 and

1 WHEREAS, Agricultural sectors have been aggressively
2 implementing best management practices that conserve nutrients and
3 minimize costs, and municipal and industrial facilities of all sizes are
4 monitoring effluent and surface water quality for these nutrients and
5 reporting those data to the Division; and

6 WHEREAS, The Division is evaluating the data to determine
7 nutrient baseline conditions; and

8 WHEREAS, The treatment of phosphorus at domestic wastewater
9 treatment facilities to reduce loadings to surface waters can increase
10 phosphorus concentrations in biosolids that may pose challenges to the
11 viability of biosolids land application programs due to phosphorus
12 indexing restrictions, necessitating additional time to develop alternative
13 phosphorus recovery methods; and

14 WHEREAS, Treatment to achieve the interim numeric values for
15 phosphorus and nitrogen is beyond the limits of technology, and reaching
16 the limits of technology would require the addition of chemicals as well
17 as significant energy consumption that can cause ancillary environmental
18 impacts, including the production of greenhouse gases and consumption
19 of water resources; and

20 WHEREAS, Long-term, effective nutrient controls will require
21 active participation and solicitation of input from interested stakeholders
22 representing municipal water and wastewater treatment facilities,
23 nonpoint sources, agriculture, regulated storm water entities, industrial
24 facilities, the conservation community, and the general public; and

25 WHEREAS, The 2015 Water Environment Research
26 Foundation-funded research on Boulder Creek identified site-specific
27 conditions that affected the impact of nutrients on the classified uses such
28 that alternative levels of nutrients could be protective; and

29 WHEREAS, Development of holistic regulatory and nutrient
30 reduction tools and strategies is needed to better predict site-specific
31 nutrient concentrations that are necessary to protect aquatic life and
32 recreational uses; and

33 WHEREAS, A delayed implementation date for Regulation #31
34 interim values beyond 2022 would allow for data collected under
35 Regulation #85 and other studies to be used for scientific

1 decision-making to develop a long-term, holistic, innovative, sustainable,
2 optimized, and cost-effective approach to nutrient management; and

3 WHEREAS, stakeholders have been participating in an established
4 Water Quality Forum workgroup process to evaluate regulatory
5 alternatives prior to the Commission's scheduled rule-making hearing
6 regarding Regulation #85 and Regulation #31 in October 2017; and

7 WHEREAS, Statewide nutrient management strategies should be
8 consistent with Colorado's State Water Plan; now, therefore,

9 *Be It Resolved by the Senate of the Seventy-first General Assembly*
10 *of the State of Colorado, the House of Representatives concurring herein:*

11 That we, the members of the General Assembly:

12 (1) Encourage interested stakeholders, including the Division,
13 members of the regulated community, drinking water providers, the
14 agricultural community, the conservation community, and the general
15 public to continue to participate through the established Water Quality
16 Forum workgroup process to evaluate holistic regulatory alternatives and
17 cooperative strategies to ensure that additional statewide nutrient
18 reduction approaches:

19 (a) Focus spending where it will have the most environmental
20 benefit;

21 (b) Take into consideration the technical and economic feasibility
22 of treatment;

23 (c) Are environmentally sustainable;

24 (d) Do not unnecessarily burden small, rural, or disadvantaged
25 communities;

26 (e) Are consistent with the goals of Colorado's State Water Plan;

27 (f) Include strategies for measuring nutrient reductions achieved
28 over time; and

29 (g) Reflect input from participating stakeholders; and

30 (2) Encourage the Division and other participating stakeholders,
31 prior to the Commission's October 2017 scheduled rule-making hearing
32 regarding Regulation #85, to present strategies identified during the
33 Water Quality Forum workgroup process to a joint meeting of the Senate
34 Agriculture, Natural Resources, and Energy Committee and the House
35 Agriculture, Livestock, and Natural Resources Committee no later than
36 May 1, 2017.

1 *Be It Further Resolved*, That copies of this Joint Resolution be sent
2 to Governor John Hickenlooper, each member of Colorado's
3 congressional delegation, and Dr. Larry Wolk, the executive director of
4 the department of public health and environment.