

## ISSUES SUBMITTAL FORM

Date: 6/7/2021

<b>ISSUE:</b>	<b>Should CPW remove swimming regulations outside of designated swim beaches and broadly allow swimming in state-park-managed areas with some exceptions, and change the age restrictions from 12 to 13 for swimming unless accompanied by an adult?</b>
<b>DISCUSSION (FACTS AND FIGURES, EXPLANATION OF ISSUE):</b>	
<p>Colorado Parks and Wildlife 2-CCR 405-1 (#100.C.14.a) states "It shall be prohibited for any person to swim or bathe in any Parks and Outdoor Recreation waters, except in areas designated for such use." Areas designated for such use are restricted to swim beaches only.</p> <p>Enforcement and interpretation of the no swimming regulation at Colorado State Parks has been inconsistent at best over the last 30+ years with no clear and documented management strategy or plan. Recognizing the activity and managing it appropriately will provide the public what they want and already practice. Implementing education and safety strategies to manage swimming in multi-use areas, meets our mission "to provide enjoyable outdoor recreation opportunities."</p> <p>There are widely accepted unwritten exceptions to the no swimming regulation at many water-based state parks. Regulation currently allows visitors engaged in recreational water activities (i.e., water skiing, jet skiing, knee boarding, sailboarding, kayaking, wakeboarding, stand up paddle boarding, etc.) to swim back to their vessel/equipment when they fall into the water during the course of their activity per regulation. Underwater scuba diving and spearfishing both of which include swimming are permitted in state-park-managed waters per regulation.</p> <p>Even though swimming in state-park-managed waters (with the exception of designated swim areas) is prohibited, based on years of historical use, the public has been and will continue to swim illegally under the current regulation. The reservoirs, shorelines, and number of visitors in many parks are too large for staff to completely enforce the existing no swimming regulation.</p> <p>It is apparent and obvious the public wants to get into the water to swim and cool off. The existing no swimming regulation generates public confusion, frustration, and dissatisfaction. When illegal swimmers are contacted by park staff, the swimmers do not understand why others involved in water recreation activities, like underwater scuba diving and spear fishing, are permitted to swim and they are not. Park visitors are naturally drawn to the water of state park lakes and reservoirs to swim and cool off during warm high-use seasons. When state parks that have designated swim areas reach full capacity, all other open shoreline areas become prone to illegal swimming making enforcement impractical.</p> <p>Colorado Department of Public Health and Environment, Water Quality Control Division (WQCD) enforces "Regulations Pertaining to Swimming Pools and Mineral Baths, "5 CCR 1003-5 (the "Regulation") defines a natural swimming area as "a designated portion of a natural or impounded body of water in which the designated portion is devoted to swimming, recreative bathing, or wading and for which an individual is charged a fee for the use of such purposes." WQCD Regulation's definition of a natural swimming area does not specifically address multi-use areas where swimming or wading might occur.</p> <p>WQCD's regulation further explains that the Department considers a natural swimming area a location where swimming is promoted or where improvements have been made to promote swimming (i.e., a swim buoy line marking the perimeter of the swimming area and anchored buoys that restrict boats from entering the area). CPW's fee structure is for use of most amenities within the park and not specific to swimming.</p> <p>This regulation change would allow swimming broadly, but would leave in place regulations for designated swim beaches under WQCD's regulation. This would allow for swimming in most state-park-</p>	

controlled waters, unless posted otherwise. It would also allow park managers to keep the designated swim beaches in their parks, which would largely remain unchanged by this regulation. The only proposed change to designated swim beaches would be to change the age from 12 to 13 without an adult.

Public lakes and reservoirs are generally considered multi-use recreation and are not specifically designated just for swimming. Multi-use areas are not subject to the monitoring and reporting requirements of WQCD's regulations and therefore should not be subject to regulation 5CCR 1003-5.

There are several Colorado lakes, streams and reservoirs that currently permit swimming in their entire body of water: Grand Lake, Blue Mesa, Boulder Creek, and many hot springs to name a few.

The intention of this regulation is to open swimming in areas where CPW deems it reasonable. Nothing in this document is intended to limit the areas where park managers could prohibit swimming if they felt it necessary. A park manager should consider the following criteria, when making the decision if swimming will be prohibited:

1. Public safety or welfare
2. Potential impacts to wildlife, parks or outdoor recreation resources
3. Whether the activity will unreasonably interfere with existing authorized activities or third party agreements, and
4. Whether the activity will provide additional public benefits.

Park managers should not be limited to these criteria, but rather use it as a list to consider before making management decisions regarding swimming. Park managers would retain the control of swimming by designating areas as no swimming by posted signs. It is not the intention of this document to remove existing designated swim beaches or regulations.

It should be noted that swimming in untreated natural waters increases the risk of coming into contact with bacteria that might make people sick. However, there are risks also associated with areas where swimmers are concentrated, where the water is warm, or soon after it rains. As mentioned above, there are many water recreation activities that allow contact with water. State-park-managed lakes and reservoirs are still subject to water quality monitoring and will notify the public of any known issues (i.e. Cyanobacteria, Cercarial dermatitis (swimmers itch), pollution spills, etc.)

This issue paper also proposes changes to #100.C.14.d in order to make the age requirements consistent with the life jacket statutory language found in Title 33-13-106 (4.5). Therefore, staff recommends changing the wording in #100.C.14.d to state "swimming is prohibited for any child under the age of 13 unless accompanied by an adult."

Therefore, this issue proposes to clear up public confusion, frustration, and dissatisfaction by designating the entire reservoir open to multi-use water recreation (which includes swimming) with additional restrictions listed in regulation or posted against such use as described in the alternatives below. This proposed issue paper would leave swim beach language and regulations in place for those parks that chose to maintain a swim beach, with the exception of changing the age requirement from 12 to 13 in #100.C.14.d.

**STATE LAW REQUIRES CPW TO SOLICIT INPUT FROM STAKEHOLDERS THAT MAY BE AFFECTED POSITIVELY OR NEGATIVELY BY THE PROPOSED RULES. THE FOLLOWING STAKEHOLDERS HAVE BEEN ADVISED OF AND INVITED TO PROVIDE INPUT ON THE REGULATORY CHANGES PROPOSED IN THIS ISSUE PAPER:**

**\*IT IS ASSUMED THAT ALL NECESSARY INTERNAL PARTIES HAVE BEEN NOTIFIED\*.**

CPW Leadership and Park Managers - Review & discussion at Regional Levels

Parks will communicate changes with appropriate lease holders.

Colorado Marine Dealers Association - Letter of Support

**ALTERNATIVES: (POSSIBLE OUTCOMES or POSSIBLE REGULATIONS):**

**1. Preferred Alternative**

Remove existing Colorado Parks and Wildlife Chapter 1 swimming, regulation (#100.C.14.a), but keep #100.C.14 b., c. and e. for regulating swim beaches, and revise #100.C.14.d “from under the age of 12” to “under the age of 13.”

Designate all CPW-managed parks properties open to multi-use water recreation (which includes swimming) with the exception of the listed areas/conditions listed in the proposed regulation.

Proposed Regulation:

Swimming on state-park-managed properties shall be lawful with the exception of:

- a. From sunset to sunrise
- b. Within or 150 feet from;
  - i. any boat ramp
  - ii. marina
  - iii. breakwater
  - iv. dock
  - v. buoy-designated hazard or keep out
  - vi. any dam inlet or outlet structure
  - vii. swimming prohibited where posted
- c. for any child under the age of 13 to swim unless accompanied by an adult
- d. and as indicated under #100.D of these regulations:
  - i. Barr Lake State Park: Swimming is prohibited.
  - ii. Eleven Mile State Recreation Area: Swimming is prohibited.
  - iii. Golden Gate Canyon State Park: Swimming is prohibited.
  - iv. James M. Robb - Colorado River State Park: Swimming is prohibited within East and West Lake of the Wildlife Area Section.
  - v. Lathrop State Park: Swimming is prohibited except at the designated swim beach at Martin Lake.
  - vi. Roxborough State Park: Swimming is prohibited.
  - vii. Spinney Mountain State Recreation Area: Swimming is prohibited.

**2. Status quo.**

<b>Issue Raised by:</b>	
<b>Author of the issue paper (if different than person raising the issue):</b>	<b>Joseph Stadterman (SE), Jason Trujillo (NE), Alan Martinez (NW), Kirstin Copeland (SW), Grant Brown (Statewide)</b>
<b>CC:</b>	
<b>APPROVED FOR FURTHER CONSIDERATION BY:</b>	<b>Brett Ackerman</b>
<b>REQUIRES NEW SPACE IN THE BROCHURE?</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
<b>ARE ADEQUATE STAFF AND FUNDING RESOURCES AVAILABLE TO IMPLEMENT?</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
<b>REGION, BRANCH, OR SECTION LEADING IMPLEMENTATION</b>	<b>Statewide</b>
<b>RECOMMENDED FOR CONSENT AGENDA?</b>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

**ISSUES SUBMITTAL FORM**

Date: 6/7/2021

<b>ISSUE:</b>	<b>Should a regulation be added that creates a wakeless day (Wednesday) for boaters on Highline Lake?</b>
<b>DISCUSSION (FACTS AND FIGURES, EXPLANATION OF ISSUE):</b>	
<p>With the increase in types of boating use over the years, smaller vessels such as kayaks, jon boats, and sailboats have difficulty navigating on Highline Lake due to an increase in traffic from ski boat, wakeboard boats, and personal watercraft (PWCs). With Highline Lake being only 160 surface-acres, smaller boats have no areas on the lake where they are not rocked by the large waves created by larger speedboats. Staff witnessed a dramatic increase in boat traffic during 2020 which created more conflicts between boating users, most commonly resulting in smaller boat owners leaving the park upset.</p> <p>In 2019, a few sail boaters approached Highline Lake staff requesting wakeless days so they could sail without being impacted by the waves of ski and wakeboard boats. With increased visitation in 2020, fishermen and paddleboard users also began to request a wakeless day since waves also impact their ability to use the lake. After analyzing boat inspection data, we found that Wednesday was one of the slowest days for powerboat usage, minimizing the impact of a "Wakeless Wednesday" on our motorized users.</p> <p>Due to the large wave action over the last ten years, the lake has been experiencing erosion issues along the shorelines. Park staff installed three breakwater systems in early 2020 to protect critical areas of the shoreline along with the boat ramp, where boaters were finding it difficult to launch with the strong wave action. After a boat capacity survey was completed by staff in 2018, the park also decreased boat capacity from 40 boats to 30 boats at a time in an effort to reduce conflicts and reduce shoreline erosion.</p> <p>On January 4, 2021, a press release was issued to gather input from the boating public and to inform them of the possible new regulation of "Wakeless Wednesday." The park solicited feedback through email. 15 emails were received in support of the wakeless day and one was opposed to the possible regulation. To remain consistent with current regulation (#218-1), "wakeless" for the purpose of this paper is defined as 5 mph or less so as not to create water movement great enough to disturb a boat at rest.</p> <p>On January 13, 2021, a virtual public meeting was held with 12 participants. Four people chose to speak on the issue and three of them supported the regulation change.</p> <p>After the public meeting was held, the park received an additional letter of support, dated January 19, 2021.</p> <p>A few boating users have asked for having multiple days with different hours for wakeless hours but to cut down on the confusion to the public and to staff, park staff would prefer having one day a week which requires wakeless operation. This proposed regulation does not eliminate motorized boating so it would not restrict the type of vessels being able to launch on Wednesdays, but would only apply to their operation.</p> <p>Park staff understands that Highline Lake is an important recreational location in Mesa County and is one of the only boating waters in the Grand Valley. We believe this is a reasonable compromise to allow enjoyable access one day a week for lake users wanting to enjoy a wave-free day.</p>	
<b>STATE LAW REQUIRES CPW TO SOLICIT INPUT FROM STAKEHOLDERS THAT MAY BE AFFECTED POSITIVELY OR NEGATIVELY BY THE PROPOSED RULES. THE FOLLOWING STAKEHOLDERS HAVE BEEN ADVISED OF AND INVITED TO PROVIDE INPUT ON THE REGULATORY CHANGES PROPOSED IN THIS ISSUE PAPER:</b>	

<b>*IT IS ASSUMED THAT ALL NECESSARY INTERNAL PARTIES HAVE BEEN NOTIFIED*.</b>	
Sail boaters Boat fishermen Stand up paddle board users Power boaters	
<b>ALTERNATIVES: (POSSIBLE OUTCOMES or POSSIBLE REGULATIONS):</b>	
<p>1. <b>*Preferred Alternative*:</b> Chapter P-1, #100-D.16.h: Vessels launched on Highline Lake on Wednesdays are prohibited from travelling at speeds above “wakeless,” as defined in regulation #218-1 in Chapter P-2. If July 4<sup>th</sup> falls on a Wednesday, this day is exempt from the wakeless restriction.</p> <p>2. No change, allow all types of boating to take place.</p>	
<b>Issue Raised by:</b>	<b>Alan Martinez and Ashlee Wallace</b>
<b>Author of the issue paper (if different than person raising the issue):</b>	
<b>CC:</b>	
<b>APPROVED FOR FURTHER CONSIDERATION BY:</b>	<b>JT Romatzke</b>
<b>REQUIRES NEW SPACE IN THE BROCHURE?</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
<b>ARE ADEQUATE STAFF AND FUNDING RESOURCES AVAILABLE TO IMPLEMENT?</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
<b>REGION, BRANCH, OR SECTION LEADING IMPLEMENTATION</b>	
<b>RECOMMENDED FOR CONSENT AGENDA?</b>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO