

Summary Comments on Wetland Classification Concepts (1, 2, 3, 4, 5)

January 23, 2009

Over the course of three meetings the group focused on four key wetland classification changes proposed by the Program:

1. 3-tiered wetland classification approach
2. addition of wetland vegetative communities
3. addition of a wetland assessment protocol
4. modify linkage of wetlands between Wild Trout Waters and Chapter 93 classifications.

The following is a summary of comments submitted by individual group members that the program will consider when drafting the regulation. This list of comments does not represent a consensus among group members nor an endorsement by the workgroup as a whole. Detailed discussions of these issues can be found in the meeting minutes of the Chapter 105 Adhoc Workgroup.

1. 3-tiered wetland classification approach (1, 2, 3, 7)

- Three classes (categories) of wetlands can be distinguished with the proposed methodology and should be used along with other supplemental information. The labels of Exceptional Value (EV), High Quality (HQ), and Wetlands are appropriate terms and are consistent with other water quality programs.
- The Program should:
 - begin drafting language that continues to develop this concept (3)
 - ensure criteria used to classify wetlands into three categories should be clearly stated and how such classification will change existing status. (2)
 - Consider how proposed wetlands impacts would be evaluated in the context of the permit review criteria.
 - Some members believe the evaluation should ensure that existing protections for EV and Other wetlands are not diminished in any way, and that the inclusion of the intermediate HQ classification simply results in greater protection (i.e. no adverse impact) for some wetlands that are currently only protected as Other wetlands.
 - Other members indicate support for the adoption of the 3-tiered classification system that reflects Chapter 93, regardless of the implications for existing Chapter 105 wetlands classifications.
 - maintain the emphasis on avoidance and minimization, regardless of the wetland classification, whether the additional HQ tier is added or not.
 - continue to protect resources to the current requirements and be reflected in permit review process
 - establish permit process & decision tree to outline process, to consider the classification concept in the context of the permit review process.
 - consider developing a guidance document concerning water dependency and when the demonstrated unavailability applies and does not apply so that permitting decisions among staff and DEP Regions is consistent and the regulated community is aware of the implications.
 - make certain that any revisions or additions to the wetland classification system are specific and easily reproducible by the general public in order to ensure clarity and minimize ambiguity within the permit process.

2. Addition of wetland vegetative communities (1, 2, 3, 7)

- The Program should:
 - continue inter-agency discussions to determine the specific use of the S ranking system with consideration of:
 - what rarity level to include as special protection (2)
 - how dual ranks will be addressed (dual rankings may need to be eliminated if the S1/S2 (EV) and S3 (HQ) criteria will be pursued) (2, 3)

1 – January 9, 2008 meeting minutes
2 – February 20, 2008 meeting minutes
3 – May 9, 2008 meeting minutes
4 – July 8, 2008 meeting minutes

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7 – submitted as part of comment process, may be summarized.

- make certain the end product to identify these communities is user-friendly and efficient, repeatable and defensible. (2)
 - a centralized database or map could serve as a starting point
- determine what portion of wetland vegetative communities classification may be appropriate for regulation or better implemented through policy
- consider utilizing an official listing process with public notice and the Environmental Quality Board (2)
- keep new classifications to a minimum and specifically identify areas where they are applicable, as the possibility exists that the new system could be used as a means of restricting permits in these newly classified areas

3. Addition of wetland assessment protocol (1, 2, 3, 4, 7)

- The Program should:
 - use assessment protocol score as an additional factor to classify special protection wetlands, but not be used to lower protection of an otherwise classified special protection wetland (4)
 - consider including “Department-approved methodology” language in revised regulations, then implementing the assessment via policy at a later date (2, 4)
 - consider using the protocol as one of the tools to streamline the current Environmental Assessment (EA); protocol has merit to document “condition” of a wetland, but EA should still address functions & values (2)
 - consider if incorporation of conditional assessment into regulation for EV/HQ designations is the correct approach
 - recognize that a wetland assessment protocol that relies on individual interpretation or subjective determinations may result in significant confusion and delays in the permit process. Although these types of interpretations and determinations are absolutely necessary, may not be appropriate for an initial classification system.
 - a large training effort will be necessary (4)
 - use protocol comparatively on natural wetlands and mitigation projects. (3)
 - include the three level assessment concepts (i.e., landscape, rapid, intensive) as developed in peer reviewed literature and government documents into revised regulations, but sampling and assessment protocols should be adopted administratively to allow evolution of the methods and scoring systems.
 - use Level 3 Intensive assessments on larger, complex, and controversial projects where more information is needed for decision-making. (4)

4. Modify linkage of wetlands between Wild Trout Waters and Chapter 93 classifications (1, 2, 3, 4, 5, 7)

- The Program should:
 - Some members believe continued inter-agency and stakeholder discussions to determine if this approach resolved current regulatory inconsistencies while also maintaining the current level of protection, other members believe the discussions should end with this group and the program left as-is based on the PFBC presentation given on July 7, 2008.
 - some members support consistency between Chapter 93 and Chapter 105.
 - consider modifying other regulations/policy/guidance to provide a remedy for the problem (no discharge alternatives for SW) rather than changing the Chapter 105 regulations.
 - consider the following in further discussions:
 - using only Class A wild trout and Chapter 93 EV as EV wetlands
 - not changing approach and keeping Wild Trout qualifier for EV wetlands, many of these wetlands, particularly in headwaters areas, provide critical habitat to wildlife in much the same way as they protect the wild trout fisheries.
 - providing additional information about how such a linkage, or lack thereof may affect permit decisions, changes could have the effect of extending the reach of the state’s ability to restrict permits in these areas
 - July 7, 2008 meeting presentation by Pennsylvania Fish and Boat Commission on how the change would affect wetland protection. (5)

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