
North Coast Regional Water Quality Control Board

January 12, 2022

Chris Chase
Chair, Management Committee
California Board of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 95814

Subject: Comments on the Board of Forestry and Fire Protection proposed Meadows, Wet Areas, and Cutover Land Amendments, 2021, Title 14 of the California Code of Regulations

File: Timber, Board of Forestry, General

Dear Committee Chair Chase:

The North Coast Regional Water Quality Control Board (Regional Water Board) would like to take this opportunity to provide a follow-up to the letter we sent last July to the Management Committee (Committee) of the California Board of Forestry and Fire Protection (Board of Forestry) in which we provided some background and comments on the proposed Meadows, Wet Areas, and Cutover Land Amendments, 2021.

We appreciate having had the opportunity to participate and to provide input during Committee meetings. Regional Water Board staff are very much in favor of consolidating the two different definitions of “Meadows and Wet Areas” and the definition of “Wet Meadows and Other Wet Areas.” As stated in our July letter, we believe that in addition to consolidating the definitions for internal consistency within the Forest Practice Rules, this is an opportunity to provide inter-agency consistency, as well.

In order to provide inter-agency consistency, we proposed using the combined Regional and State Water Boards’ (Water Boards’) definition to define the term “Wet Areas” in the Forest Practice Rules. It is a definition that was developed over more than a decade of outreach, stakeholder review, vetting. We were pleased to see that it was the primary definition in the drafts of the proposed rule revisions at during the August and September Committee meetings. We heard no objections to the definition at either

meeting. We are concerned, though, that after no Management Committee meeting during the November Board of Forestry, the Water Boards' definition was not present in the December draft of the proposed rule language.

Background

To reiterate the information provided in our July letter, the primary responsibility for the protection and enhancement of water quality in California has been assigned by the California legislature to the State Water Resources Control Board (State Water Board) and the nine regional water quality control boards (Regional Water Boards). The regional water boards adopt and implement water quality control plans (Basin Plans) which recognize the unique characteristics of each region with regard to natural water quality, actual and potential beneficial uses, and water quality objectives to protect beneficial uses.

Executive Order W-59-93, signed by Governor Pete Wilson on August 23, 1993, established state policy guidelines for wetlands conservation. The primary goal of this policy is to ensure no overall net loss and to achieve a long-term net gain in the quantity, quality, and permanence of wetland acreage in California. The Executive Order declares that it is the policy of the State of California that all State programs and policies that affect the wetlands of California should be coordinated.

Problem with the December 2021 Proposed Definition

The December 7, 2021 draft proposed to use the Southern Forest District definition of Meadows and Wet Areas as the consolidated state-wide definition:

“Meadows and Wet Areas” means those areas which are moist on the surface throughout most of the year and/or support aquatic vegetation, grasses and forbs as their principal vegetative cover.

This definition is problematic in several ways:

- 1) The definition lacks temporal consistency. What may be “moist on the surface” most of a year with average precipitation may not be moist on the surface during a year with significantly less precipitation. A timber harvesting plan developed during an abnormally dry year may not recognize, and therefore would not provide protection for, an area that may become “moist on the surface” throughout the operational life of the plan;
- 2) The definition recognizes only those areas “which are moist on the surface throughout most of the year,” but not areas that may have continuous or recurrent saturation in the upper substrate;
- 3) The definition recognizes hydrophytes as the principal vegetative cover, but does not recognize the possibility of the lack of vegetation.

Recommendations

We recognize the vagueness of the term “normal” and therefore we recommend that the definition of Wet Areas in Section 14 CCR 895.1 of the Forest Practice Rules should use a slightly modified version of the definition adopted by the California State and Regional Water Boards on April 2, 2019 after more than a decade of outreach, stakeholder review, vetting, and rigor:

“Wet Areas” mean those areas where, under hydrologic conditions that are consistent with the long term precipitation record, (1) the area has continuous or recurrent saturation of the upper substrate caused by groundwater, or shallow surface water, or both; (2) the duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate; and (3) the area’s vegetation is dominated by hydrophytes or the area lacks vegetation.

Please note that the State and Regional Water Boards’ definition identifies three wetland characteristics that determine the presence of a wetland: wetland hydrology, hydric soils, and hydrophytic vegetation.

If you or your staff have any questions regarding our comments or would like additional information, please contact David Fowler (707) 576-2756, David.Fowler@waterboards.ca.gov.

Sincerely,

Jonathan Warmerdam
Supervisor, Non-Point Source and Surface Water Protection Division

cc: Eric Hedge, Board of Forestry and Fire Protection, Eric.Hedge@bof.ca.gov

Jane VanSusteren, Board of Forestry and Fire Protection,
Jane.VanSusteren@bof.ca.gov