

NUTRIENT OFFSET LANGUAGE FOR DEMONSTRATING COMPLIANCE

The language provided below would appear in Part B of the Draft Lake Elsinore and Canyon Lake Nutrient Total Maximum Daily Load (TMDLs), Attachment A to Resolution No. R8-2019-0041. At the end of the first paragraph under Part B – Demonstrating Compliance, Regional Board staff first proposed the following language:

VERSION 1 - 2019

All dischargers shall also demonstrate that all feasible best management practices have been implemented to reduce nutrient discharges, before proposing to use in-lake treatment options for meeting the load allocations for these TMDLs. Additionally, if the Numeric Targets for the Lake are not met, additional nutrient load reductions may be required for all dischargers subject to these TMDLs.

The Task Force expressed serious concerns with this language, as it required a demonstration that all feasible BMPs had been implemented prior to proposing use of in-lake treatment options (i.e., offsets). In response to Task Force Concerns, Regional Board staff put forward the following language:

VERSION 2 - 2020

All feasible controls within the watershed must be implemented to reduce discharges of nutrients to the lake according to effluent limitations in applicable permits. In-lake remediation can also be used to offset loads of nutrients that exceed load allocations and which are not reduced by controls. If offset programs are used, all methodologies of calculating the credits generated must be made available to be the board and are subject to board review and approval. Calculation methods are likely to involve uncertainty. The effects of uncertainty on achievement of load allocations may be compensated for using factors of safety or ratios. Calculations must be based on valid methods with full disclosure of uncertainties and assumptions.

The language provided by Regional Board staff needs further revision to clearly articulate the ability of dischargers to use In-lake Treatment/Offsets to demonstrate compliance with load and wasteload allocations.

ALTERNATIVE TO VERSION 2 (modify Regional Board Staff's 2020 Language)

Eligible dischargers may use In-Lake Treatment/Management options (i.e., offsets) ~~All feasible controls within the watershed must be implemented to reduce discharges of nutrients to the lake according to effluent limitations in applicable permits. In-lake remediation can also be used~~ to offset loads of nutrients to demonstrate compliance with that exceed load and wasteload allocations. To be eligible to use such options, a discharger(s)

~~must actively implement CNRPs, AgNMPs, or other management programs in a manner that is consistent with approved programs, as applicable, and which are not reduced by controls. Existing offset programs (i.e., alum, LEAMS, fisheries management) previously approved by the Regional Board, remain valid until terminated or revised by the Regional Board, following appropriate public notice, comment and hearing. New or revised offset programs are shall be subject to Regional Board review and approval prior to being used to offset loads of nutrients to demonstrate compliance with load and wasteload allocations, as implemented through provisions contained in adopted NPDES permits, waste discharge requirements or waivers. When the Regional Board considers new or revised offset programs, used, all it shall consider and evaluate the methodologies for calculating the credits generated. must be made available to be the board and are subject to board review and approval. Calculation methods are likely to involve uncertainty. The effects of uncertainty on achievement of load allocations related to calculation methods may be compensated for using factors of safety or ratios. Calculations must be based on valid methods with full disclosure of uncertainties and assumptions.~~