Compliance Determination

Regional Water Quality Control Board
Santa Ana Region
Purpose

- Clarify “compliance vs. assessment”
- Review permit compliance options
Compliance vs. Assessment

- Compliance
  - Permitting options/issues
- Assessment
  - TMDL attainment
Compliance vs. Assessment

• Used interchangeably throughout the 2009 Staff Report
  – E.g., “Compliance” Assessment Areas

• This will be changed in the 2014 revised staff report to clearly distinguish between:
  – Compliance with TMDL allocations required by permits
  – Monitoring and assessment needed to determine progress towards achieving the TMDLs
Proposed Permit Compliance Options

Three compliance options identified:

Option 1:  NSMP dischargers (via CWP Funding Agreement)

Option 2:  Individual Action Plan

Option 3:  No discharge
Proposed Permit Compliance Options

Option 1: NSMP CWP Funding Program

Dischargers

Allocations: (basis of limitations)

• Performance-based interim allocations (implement tasks in the NSMP BMP Strategic Plan)
• Final allocations also specified; compliance to be achieved as soon as possible but no later than 15 years from TMDL effective date

➢ If the numeric tissue targets are being consistently met, permittees are considered to be in compliance
Proposed Permit Compliance Options

Option 2: Individual Action Plan Dischargers (and non-compliant NSMP dischargers)

- Individual dischargers identify and implement an alternative, Rg.Bd.- approved TMDL compliance plan
- Final allocations to be achieved as soon as possible but no later than 3 years from effective date of TMDL
- Interim actions in accordance with approved Individual Action Plan

- Any discharger can elect to develop an IAP
Proposed Permit Compliance Options

Option 2: Individual Action Plan Dischargers (and non-compliant NSMP dischargers)

- Implement an approved offset for Se discharges in excess of Se limits until final compliance achieved:
  - NSMP CWP Funding Agreement expected to include offset provisions for these dischargers
  - NSMP/CWP program participants, 1:1
  - Others, 2:1 offset required
Proposed Permit Compliance Options

Option 3: No Discharge

• Cease discharge or do not commence discharge unless committed to Option 1 or 2
Compliance Determination Summary

• Permit requirements tied to TMDL allocations
  – Interim performance-based allocations for NSMP CWP dischargers and 15 year compliance schedule
  – All others must meet final allocations within 3 years of the effective date of the TMDLs
    • Interim offsets required
    • Final allocations: CTR-based until SSOs approved
Compliance Determination Summary

- Performance-based allocations may be considered final allocations (versus concentration-based allocations)
  - If the numeric tissue targets/SSOs are being consistently met as defined by the TMDLs
    - MS4 permit currently allows this flexibility
    - Less certain as to whether this can be done with other types of permits

- Ultimate goal is to meet numeric tissue targets/SSOs; final WLA should be set at whatever concentration results in the tissue targets being consistently met