

## CV-SALTS Revisions BPA

### Discussion Topics for April 23, 2020 Executive Committee Meeting

1. Clarification of the use of “assimilative capacity” in Path A.
  - a. Comment - State Board’s resolution specifies that the revisions remove the option for management zones developed in accordance with the Nitrate Control Program (Path B) to use a volume-weighted average to allocate assimilative capacity as an alternative compliance pathway. Will this revision also affect the use of assimilative capacity in Path A?
  - b. Response – Path B’s allocation of assimilative capacity was based on a volume-weighted averaging in the Upper Zone across the entire Management Zone. Concern with this approach focused on the potential risk that “hot spots” could be averaged out over the large span of a Management Zone. However, Path A’s use of assimilative capacity will be based only on ambient water conditions in the Shallow Zone beneath the individual permittee’s land application area. The Shallow Zone is the portion of the aquifer whose areal extent is defined by the boundaries of the discharge area and whose vertical extent is defined by the depth of the shallowest 10% of the domestic water supply wells near the discharge or an equivalent alternative. As such, allocation of assimilative capacity will remain a viable compliance option for Path A dischargers required to develop an Alternate Compliance Project.
2. Request by EJ stakeholders to discuss the addition of the following language to the revisions (pertaining to the requirements of Management Zone Implementation Plans):

*Management Zone Implementation Plans must also address costs of providing drinking water, including costs for operations and maintenance, related to nitrate contamination. Eligibility for subsidized operations and maintenance costs related to nitrate contamination, and the amount of such subsidy, should be determined by considering the following nonexclusive factors:*

- a. *Any relevant affordability thresholds adopted by the State Water Board;*
- b. *The size and financial capacity of the water system;*
- c. *Whether, and the extent to which, the water system serves a disadvantaged community or disadvantaged communities;*
- d. *The extent to which the portion of the increased costs related to nitrate contamination can be quantified; and*
- e. *Whether there was an available and implementable solution to nitrate*

*contamination that was more financially sustainable than the one chosen by the water system.*

3. Process for Central Valley Water Board to modify Management Zone boundaries
  - a. Issue: State Board's resolution directed the revisions to include an alternative process for the Central Valley Water Board to modify a Management Zone's boundaries if it determines that the proposed Management Zone inappropriately excludes portions of basins with nitrate concentrations exceeding 10 mg/L.
  - b. Strawman Proposal: If the Central Valley Water Board makes the determination that a proposed Management Zone boundary is inappropriately excluding portions of the basin with nitrate concentrations exceeding 10 mg/L, the Management Zone boundary will default to the applicable DWR basin delineated in Figure N-1 of the Nitrate Control Program.
4. Process for Late Participation in a Management Zone
  - a. Issue: There is no provision in the Nitrate Control Program allowing a permittee to join a Management Zone after the Notice of Intent due date (e.g. failure to comply). The Salt Control Program does provide a way for permittees to participate in the P&O Study after the Notice of Intent due date:

*Permittees who do not respond in the required six- month period are subject to enforcement for failure to respond to the Notice to Comply but may still select the Alternative Salinity Permitting Approach. Permittees selecting the Alternative Salinity Permitting Approach after the originally allocated six-month period will need to obtain approval from the lead entity conducting the P&O Study to join late and will be subject to the lead entity's requirements in addition to providing the minimum required level of financial support.*

- b. Discussion: Should we include in similar provisions in the Revisions BPA for late Management Zone participation (Path B) for the Nitrate Control Program?