

**3745-5-04 Water quality trading: general requirements.**

- (A) Water quality trading activities shall be in accordance with this chapter and all other applicable rules and laws. The director may deny any water quality trading management plan application that does not contain the required information.
- (B) An approved water quality trading management plan shall be effective for up to five years from the date it is approved by the director.
- (C) Except as provided in paragraph (D) of this rule, after January 1, 2007, no person shall participate in water quality trading activities without an approved water quality trading management plan.
  - (1) When a water quality trading management plan application is part of an NPDES permit, the only application fee required is the NPDES permit application fee, in accordance with section 3745.11 of the Revised Code.
  - (2) When a water quality trading management plan application is not part of an NPDES permit, the plan application fee and plan review fee, in accordance with section 3745.11 of the Revised Code shall apply.
- (D) For any water quality trading activities in effect on January 1, 2007, a water quality trading management plan shall be submitted to the director as follows:
  - (1) For the great Miami river watershed water quality credit trading program, not later than five years from the date that Ohio EPA adopts nutrient criteria that apply to streams.
    - (a) Until the date that a water quality trading management plan is approved by the director, water quality trading activities shall be in accordance with the great Miami river watershed water quality credit trading program operations manual, dated February 8, 2005, as endorsed by Ohio EPA.
    - (b) Any changes to the operations manual shall be mutually agreeable to the director and all permittees, organizations and agencies responsible for implementing the program.
  - (c) The director may deny water quality credits for any trading activities that:
    - (i) Are not in accordance with the operations manual;
    - (ii) Are causing adverse local impacts; or
    - (iii) Are not achieving the program measures of success and benefits included in section 1.3 of the operations manual.

(2) For the alpine cheese phosphorus nutrient trading program, not later than January 1, 2017.

(a) Until the date that a water quality trading management plan is approved by the director, water quality trading activities shall be in accordance with the alpine cheese phosphorus nutrient trading plan, dated January 1, 2006, as required by NPDES permit number 3PH00100.

(b) Any changes to the trading plan shall be mutually agreeable to the director and all permittees, organizations and agencies responsible for implementing the program.

(c) The director may deny water quality credits for any trading activities that:

(i) Are not in accordance with the trading plan;

(ii) Are causing adverse local impacts; or

(iii) Are not achieving the criteria for success that are included on pages seventeen and eighteen of the trading plan.

(E) Water quality trading activities can occur:

(1) In a watershed;

(2) In a TMDL area; or

(3) In any other area, where the director determines that water quality trading activities will achieve the purpose of this chapter.

(F) After applying the appropriate trading ratio, all nonpoint source pollutant reductions funded by a permittee shall be available as water quality credits for the permittee to use in meeting its NPDES permit effluent limits.

(G) Any water quality trading activity in impaired waters, where there is not an approved TMDL, shall achieve progress towards meeting water quality standards. Data and information in endorsed watershed plans and other locally developed watershed plans that have been reviewed and deemed acceptable by the director, may be used to provide the necessary scientific basis for pre-TMDL trading.

(H) Water quality trading activities in impaired waters, with an approved TMDL, shall be consistent with the assumptions and requirements upon which the TMDL is established and shall not delay implementation of an approved TMDL.

- (I) Best management practices may generate water quality credits as long as they are fully maintained and continue to function as designed and shall be inspected at least annually by a qualified soil and water conservation professional.
- (J) Best management practices may have contracts that extend beyond the expiration date of an approved water quality trading management plan. Upon renewal of the plan, these BMPs may continue to generate water quality credits provided the provisions of paragraph (I) of this rule are met.
- (K) A qualified soil and water conservation professional shall:
- (1) Calculate any point source-nonpoint source water quality credit;
  - (2) Select the appropriate BMP;
  - (3) Determine the baseline for the generation of water quality credits and quantifying pollutant load reductions for any BMP;
  - (4) Conduct field inspections of any BMP to ensure correct installation and proper function, and to determine BMP failure; and
  - (5) Conduct water quality monitoring to obtain data to evaluate BMP effectiveness and to evaluate and improve the method used to quantify pollutant load reductions and water quality credits.

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