

3745-5-11 Water quality trading: incorporating trades into individual NPDES permits and general permits.

- (A) For any permittee participating in trading activities, a special condition will be included in the NPDES permit that:
- (1) Authorizes water quality trading;
 - (2) Requires implementation of actions from the approved water quality trading management plan that are included in the NPDES permit and specifics that failure to implement these actions is a violation of the permit;
 - (3) Requires submittal of an annual report that identifies the actions implemented by the permittee in the previous twelve-month period; and
 - (4) Provides that the director may revoke the approved plan and require compliance with water quality based effluent limits based on:
 - (a) Failure by participants in the trading program to implement actions in the approved plan;
 - (b) A determination by the director that sufficient pollutant reductions have not been achieved by the participants in the trading program to meet the applicable water quality based effluent limits; or
 - (c) New information becomes available that changes the director's determination on the approvability of the water quality trading management plan or on the suitability of using water quality trading as a mechanism to achieve water quality improvements in the defined trading area.
- (B) The director may incorporate special conditions in an NPDES permit to limit water quality trading activities so that adverse local impacts do not occur, including:
- (1) Limiting water quality trading to upstream trades;
 - (2) Requiring a higher trading ratio; or
 - (3) Including a cap on the portion of its effluent limit that a permittee can replace with water quality credits.
- (C) When deciding whether or not to limit water quality trading activity in an NPDES permit, the director may consider such information as:
- (1) The results of Ohio EPA water quality surveys that indicate existing local impacts;

- (2) The results of modeling and data assessment and the availability of assimilative capacity for the pollutant;
 - (3) The presence of environmental factors such as low flow areas or impoundments that would cause the pollutant to persist longer in the water column; or
 - (4) The potential for any pollutant to cause acute effects.
- (D) When water quality trading occurs between two permittees, the effluent limit in an NPDES permit will be based on the quantity of water quality credit being traded and will:
- (1) For the permittee using the water quality credit, be increased; and
 - (2) For the permittee generating the water quality credit, be decreased.
- (E) When point source-nonpoint source water quality trading occurs, the permittee's NPDES permit will:
- (1) Include the effluent limit that would apply without water quality trading;
 - (2) Include effluent monitoring and reporting requirements;
 - (3) Include any water quality credit being applied to the discharge; and
 - (4) Include special conditions necessary to determine compliance with any NPDES effluent limit.
- (F) In accordance with Chapter 3745-38 of the Administrative Code, the director may issue a watershed general permit to establish pollutant-specific limitations for a group of similar permittees to achieve the pollutant reductions specified by a TMDL or multiple TMDLs for the same watershed.

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