

3745-5-12 Record keeping, reporting requirements, compliance, enforcement, and oversight.

(A) Record keeping. Upon request by the director or the director's authorized representative, any permittee, qualified soil and water conservation professional or other person participating in the administration of an approved water quality trading management plan shall make available, within a reasonable time for inspection and copying, all records pertaining to those activities, including:

- (1) Any records that are maintained to document point source-point source trades;
- (2) Any records that are maintained to document point source-nonpoint source trades;
- (3) Water quality monitoring data collected as part of the water quality trading activities; and
- (4) Any records necessary to assess the effectiveness of a BMP to reduce a pollutant load.

(B) Reporting requirements. Upon discovering that water quality credits are insufficient to achieve compliance with an NPDES permit, a permittee shall:

- (1) Notify the director, in writing and within seven days of discovery;
- (2) Act as expeditiously as possible, but no later than ninety days from the date of discovery, to comply with its NPDES effluent limit through either:
 - (a) Obtaining sufficient water quality credits; or
 - (b) Reducing its hydraulic discharge or its pollutant loading to waters of the state; and
- (3) Notify the director in writing, within seven days of achieving compliance.

(C) Compliance, enforcement and oversight.

- (1) Any permittee who participates in water quality trading activities is responsible for meeting all applicable permit requirements, including all NPDES permit effluent limits.
- (2) The director may deny any water quality trading management plan application not in compliance with this chapter.
- (3) For any water quality trading activities in effect that are not in accordance with an approved water quality trading management plan, except those water quality trading activities covered under paragraph (D) of rule 3745-5-04 of the Administrative Code, the director may:

- (a) Require the submittal of a new water quality trading management plan application, including all applicable fees, to be submitted to Ohio EPA within thirty days; or
 - (b) Revoke the approved water quality trading management plan.
- (4) Participating in water quality trading activities does not prevent the director from taking enforcement action for violations of Chapter 6111. of the Revised Code or any other applicable rules or laws.
- (5) The director may require an evaluation of water quality trading activities that:
- (a) Describes the number and types of water quality trades;
 - (b) Includes the costs for purchasing water quality credits;
 - (c) Includes any administrative costs associated with water quality trading activities;
 - (d) Provides a determination of any net cost savings resulting from the water quality trading activities;
 - (e) Includes an assessment of the overall environmental and the economic effectiveness of the water quality trading activities; and
 - (f) Describes any need for corrective measures.
- (6) The director may reduce the scope of the evaluation required under paragraph (C)(5) of this rule based on consideration of factors, such as the number of trades that occurred, the number of nonpoint source BMPs that were implemented, the status of the BMPs, and the overall participation level in the trading activities.

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