



**Environmental
Protection Agency**

John R. Kasich, **Governor**
Mary Taylor, **Lt. Governor**
Scott J. Nally, **Director**

July 17, 2012

Re: Proposed Rules
Water Quality Trading Rules.
Ohio Administrative Code Chapter 3745-5

Dear Interested Parties:

This letter is to make you aware of, and solicit your input on, the Agency's proposed revisions to the following rules in OAC Chapter 3745-5. This chapter contains the administrative requirements for the development and implementation of water quality trading programs in Ohio.

Rule Number	Rule Title	Action
3745-5-01	Definitions: as used in this chapter.	Amend
3745-5-02	Purpose and applicability.	Amend
3745-5-03	Prohibitions and restrictions.	Amend
3745-5-04	Water quality trading: general requirements.	Amend
3745-5-05	Water quality trading: general requirements for a water quality trading management plan application.	Amend
3745-5-06	Water quality trading: requirements for a water quality trading management plan application.	Amend
3745-5-07	Requirements for water quality credits.	No Change
3745-5-08	Water quality credits and pollutant loading calculations.	No Change
3745-5-09	Determining water quality baselines.	Amend
3745-5-10	Water quality trading: trading ratios.	No Change
3745-5-11	Water quality trading: incorporating trades into individual NPDES permits and general permits.	Amend
3745-5-12	Record keeping, reporting requirements, compliance, enforcement, and oversight.	Amend
3745-5-13	Public participation requirements.	Amend
3745-5-14	Ambient water quality monitoring requirements.	Amend

Section 119.032 of the Ohio Revised Code requires Ohio EPA to review its rules every five years to determine whether they should be changed. The Agency has reviewed the above rules and has proposed changes. The major rule changes are detailed in the table on the following page.

Rule	Proposed Changes
3745-5-01	<ul style="list-style-type: none"> • Updating references, titles and Web links. • Deleting definition for technology based effluent limit.
3745-5-02	<ul style="list-style-type: none"> • Updating references
3745-5-03	<ul style="list-style-type: none"> • Revising rule to state that use of a water quality credit shall not cause or contribute to a violation of water quality standards. • Adding a provision that water quality credits may be used to comply with technology based limits for total nitrogen and total phosphorus specified in the antidegradation rule. • Adding provision that nonpoint source load reductions funded through Ohio EPA's Water Resource Restoration Sponsor Program are not eligible to generate water quality credits • Including the definition of "technology based effluent limit" within rule 3745-5-03. • Revised the definition of "technology based effluent limit" to include a limit established based on the best professional judgment of the permit writer pursuant to section 402(a)(1) of the Clean Water Act and 40 C.F.R. § 122.44(a)(1). • Prohibiting load reductions that are achieved by implementing BMPs or habitat restoration projects from being eligible for the generation of water quality credits when the practices or projects are implemented to comply with a nutrient management plan required under a permit-to-operate.
3745-5-04	<ul style="list-style-type: none"> • Adding date by which two existing trading programs must submit water quality trading management plans
3745-5-05	<ul style="list-style-type: none"> • Fixing a punctuation error.
3745-5-06	<ul style="list-style-type: none"> • Changing the size of the hydrologic unit codes that must be used when identifying areas where nonpoint source projects might be located
3745-5-09	<ul style="list-style-type: none"> • Revised water quality baseline provisions for areas where there is not an approved TMDL or where water quality fully supports designated uses.
3745-5-11	<ul style="list-style-type: none"> • Identifying additional compliance-related provisions that will be included in NPDES permits when the permittee is participating in a water quality trading program
3745-5-12	<ul style="list-style-type: none"> • Revised the word "his" to "the director's" in the first paragraph to provide for gender neutral language
3745-5-13	<ul style="list-style-type: none"> • Fixing a punctuation error
3745-5-14	<ul style="list-style-type: none"> • Revising language to include biological and stream habitat parameters in ambient water quality monitoring plans

The proposed rules, a fact sheet explaining the rule revisions are posted on the Ohio EPA website at www.epa.ohio.gov/dsw/Home.aspx . If you are unable to access the website or have questions about the proposed rules, contact Gary Stuhlfauth, Division of Surface Water, at (614) 644-2026 or gary.stuhlfauth@epa.state.oh.us.

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Comments on these rules are due to this Agency by **August 21, 2012**. Comments should be forwarded to:

Ohio EPA, Division of Surface Water
Attn: Rule Coordinator
P.O. Box 1049
Columbus, Ohio 43216-1049
(email: dsw_rulecomments@epa.state.oh.us)

Sincerely,

A handwritten signature in black ink that reads "George Elmaraghy". The signature is written in a cursive style.

George Elmaraghy, P.E., Chief
Division of Surface Water

GE:mh