



Ohio Administrative Code

Rule 3745-5-01 Water quality trading: definitions.

Effective: May 11, 2018

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules and federal statutory provisions referenced in this rule, see rule 3745-5-02 of the Administrative Code.]

As used in this chapter, terms in this rule are defined as follows:

(A) "Animal feed operation" or "AFO" means animal feeding operation, as defined in 40 C.F.R. 122.23.

(B)

(1) "Best management practice" or "BMP" means structural, vegetative, or managerial practices that reduce or prevent the discharge of pollutants to waters of the state, typically from a nonpoint source, but could also be from green infrastructure storm water controls.

(2) "Bioaccumulative chemical of concern" or "BCC" means bioaccumulative chemical of concern, as defined in rule 3745-1-02 of the Administrative Code.

(C)

(1) "Concentrated animal feeding operation" or "CAFO" means an AFO that is defined as a large CAFO or as a medium CAFO by the terms of 40 C.F.R. 122.23, or that is designated as a CAFO by the director or regional administrator. Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.

(2) "Cross-pollutant trading" means the trading of two different oxygen-related pollutants when equivalent mass loads of the pollutants can be calculated, and the water quality effects of those



equivalent mass loads are similar (for example, meeting an effluent limit for biochemical oxygen demand by purchasing credits generated by a reduction in an ammonia load or by a reduction in a phosphorus load).

(3) "Current discharge level" for a permittee means the pollutant-specific discharge load, including daily, weekly, monthly, seasonal or annual as appropriate, calculated using the median flow and concentration data for the last three calendar years.

(D) "Director" means the director of Ohio environmental protection agency.

(E) "Endorsed watershed plan" means a watershed action plan that meets all criteria of Ohio's Guide to Developing Local Watershed Action Plans in Ohio (June 1997), including the Appendix 8 update (February 7, 2003), and the most recent U.S. EPA section 319 planning guidance (federal fiscal year 2006). Endorsed watershed plans have been replaced with nine element watershed plans, as defined in this rule.

(F) "Federal Water Pollution Control Act" means the Federal Water Pollution Control Act, more commonly known as the Clean Water Act, 33 U.S.C. section 1251.

(G) [Reserved.]

(H) [Reserved.]

(I) [Reserved.]

(J) [Reserved.]

(K) [Reserved.]

(L)

(1) "Load allocation" means load allocation, as defined in rule 3745-2-02 of the Administrative Code.



(2) "Loading capacity" means loading capacity, as defined in rule 3745-2-02 of the Administrative Code.

(3) "Load reduction spreadsheet" means "Region 5 Model for Estimating Load Reductions," U.S. EPA Region 5, September 2017. This document is available on the internet at: [http://it.tetrattech-ffx.com/steplweb/models\\$docs.htm](http://it.tetrattech-ffx.com/steplweb/models$docs.htm).

(4) "Local impacts" mean a stream segment, where high levels of pollutants being traded contribute to partial attainment or non-attainment of water quality standards.

(M) [Reserved.]

(N)

(1) "Nine element watershed plan" or "nine essential elements" means the U.S. EPA recommended minimum elements for a watershed action plan, available online at: <https://www.epa.gov/nps/watershed-planning>.

(2) "Nonpoint source" means any source of pollutants other than those defined or designated as point sources.

(3) "NPDES" means national pollutant discharge elimination system.

(4) "NPDES permit" means a permit issued by the state of Ohio pursuant to section 402 of the Federal Water Pollution Control Act and Chapter 6111. of the Revised Code and rules adopted thereunder.

(O) "Ohio EPA" means the Ohio environmental protection agency.

(P)

(1) "Person" means person, as defined in section 6111.01 of the Revised Code.



- (2) "Permittee" means an NPDES permit holder.
- (3) "Point source", for the purpose of this chapter, means any discernible, confined and discrete conveyance from a wastewater treatment works. This term does not include agricultural storm water discharges or return flows from irrigated agriculture.
- (4) "Point source-point source trade" means a trade in which the person using water quality credits and the person generating water quality credits are both permittees.
- (5) "Point source-nonpoint source trade" means a trade in which the person using water quality credits is a permittee and the person generating water quality credits is a nonpoint source.
- (6) "Pollutant load" means the quantity of a pollutant expressed in units of mass or mass per unit time.
- (7) "Pollutant specific-cap" means the sum of the wasteload allocations established under a TMDL for permittees participating in a point source-point source trade.
- (8) "Pollution" means pollution as defined in section 6111.01 of the Revised Code.
- (9) "Production area" means an AFO production area, as defined in 40 C.F.R. 122.23.
- (Q)
- (1) "Qualified soil and water conservation professional" means county soil and water conservation district or "SWCD" staff, staff from the Ohio department of agriculture division of soil and water conservation or other Ohio department of agriculture staff, a natural resource conservation service or "NRCS" certified planner or an NRCS employee, a united states department of agriculture registered technical service provider or "TSP", a certified crop planner, a soil scientist as certified by the association of Ohio pedologists, a professional engineer, or equivalent professional as deemed by the director to have the education, knowledge and experience commensurate with this definition.



(2) "Quantified load reduction" means the reduction in a nonpoint source discharge that has been determined using one of the methods specified in this chapter.

(R) "Regional administrator" means the regional administrator of the appropriate regional office of the United States environmental protection agency or the authorized representative of the regional administrator.

(S) "Stewardship credit" means a water quality credit that is purchased and retired for the public benefit, rather than being used to meet an NPDES permit limit or other regulatory obligation.

(T)

(1) "Total maximum daily load" or "TMDL" means total maximum daily load, as defined in rule 3745-2-02 of the Administrative Code.

(2) "Trading ratio" means the mass of a pollutant that must be reduced to receive a water quality credit.

[Comment: A trading ratio of one to one or "1:1" means that one pound of a pollutant must be removed to receive a water quality credit for the reduction of one pound of that pollutant. A trading ratio of two to one or "2:1" means that two pounds of a pollutant must be removed to receive a water quality credit for the reduction of one pound of that pollutant.]

(U)

(1) "U.S. EPA" means the United States environmental protection agency.

(2) "Upstream trade" means a trade in which one source purchases water quality credits for pollutant reductions that are made by another source located upstream.

(V) [Reserved.]

(W)



- (1) "Wasteload allocation" means wasteload allocation, as defined in rule 3745-2-02 of the Administrative Code.
- (2) "Water quality baseline" means the level of pollutant reduction that must be achieved before water quality credits can be generated.
- (3) "Water quality credit" means the quantity of a pollutant that is available for a trade. Water quality credits are generated by pollutant reductions that are in excess of water quality baseline requirements, that occur within a specified period of time, and that are greater than those required by a regulatory requirement, such as an NPDES permit, or the wasteload allocation established under a TMDL.
- (4) "Water quality standards" means the standards set forth in Chapter 3745-1 of the Administrative Code.
- (5) "Water quality trade" means the purchase, sale, conveyance or other transfer of a water quality credit from one person or permittee to another person or permittee.
- (6) "Water quality trading" or "trading" means a regulatory program that allows a permittee to meet its regulatory obligations by using pollutant reductions generated by another person.
- (7) "Water quality trading activity" means all requirements established and all activities regulated by this chapter.
- (8) "Water quality trading area" means the region identified in a water quality trading management plan where trading will occur. Common water quality trading areas include areas delineated by the boundaries of all receiving waters, a TMDL area or a watershed area.
- (9) "Water quality trading management plan" means a management plan governing the operation and maintenance of water quality trading activities within a water quality trading area.
- (10) "Watershed" means an area of land that drains to a common lake, pond, river, stream, or other



waters of the state. A watershed may encompass a large river mainstem and all of its subbasins and tributaries when this is necessary to address regional or national water quality issues.

(11) "Watershed trading" means water quality trading activities within an area that occur between two or more permittees and one or more nonpoint sources.

(12) "Waters of the state" means waters of the state, as defined in rule 3745-33-01 of the Administrative Code.