



Ohio Administrative Code

Rule 3745-5-11 Incorporating trades into individual NPDES permits and general permits.

Effective: May 11, 2018

(A) For any permittee participating in trading activities, a special condition will be included in the NPDES permit, either at renewal or by modification, that does the following:

(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 specifies that failure to implement these actions is a violation of the permit.

(3) Requires the permittee to notify the director upon discovering that water quality credits are insufficient to achieve compliance with an NPDES permit limit and outlines the actions required by paragraph (B) of rule 3745-5-12 of the Administrative Code.

(4) Requires submittal of an annual report that identifies the actions implemented by the permittee in the previous twelve-month period.

(5) Provides that the director may revoke the approved plan and require compliance with water quality based effluent limits based on the following:

(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.

(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 the following:

- (1) Limiting water quality trading to upstream trades.
- (2) Requiring a higher trading ratio.
- (3) Including a cap on the portion of its effluent limit that a permittee can replace with water quality credits.
- (4) Establishing a minimum treatment level a plant shall meet before engaging in water quality trading activities.

(C) When deciding whether or not to limit water quality trading activity in an NPDES permit, the director may consider such information as follows:

- (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.
- (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 do the following:

- (1) For the permittee using the water quality credit, be increased.
- (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 do the following:

(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.

(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.