

**3745-5-03 Prohibitions and restrictions.**

[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.]

(A) The use of a water quality credit shall:

- (1) Not cause or contribute to a violation of water quality standards;
- (2) Not cause impairment of existing use or designated uses, as defined in Chapter 3745-1 of the Administrative Code, including adversely affecting water quality at an intake for drinking water supply;
- (3) Not exceed a loading capacity established by a TMDL;
- (4) Not be used to comply with a technology based effluent limit based on either the secondary treatment regulations as specified in 40 C.F.R. 133, the national effluent limitations guidelines and performance standards as specified in 40 C.F.R. 405 through 499, or 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); or
- (5) In accordance with section 6111.03 of the Revised Code, not conflict with an areawide waste treatment management plan adopted in accordance with section 208 of the Federal Water Pollution Control Act.

(B) A water quality credit shall not be developed for a bioaccumulative chemical of concern.

(C) Concentrated animal feeding operations may participate in water quality trading activities subject to the following restrictions:

- (1) Load reductions that result from implementing structural controls or management practices in a CAFO production area are not eligible for the generation of water quality credits;
- (2) A concentrated animal feeding operation may not use water quality credits to comply with the no discharge technology limit that applies to a CAFO production area; and
- (3) Load reductions that are achieved by implementing BMPs or habitat restoration projects are eligible for the generation of water quality credits provided the practices or projects are not implemented to comply with a nutrient management plan required under an NPDES permit or a permit-to-operate.

(D) The director may consider the generation of water quality credits from habitat restoration projects, provided the pollutant load reductions can be calculated in accordance with this chapter.

[Comment: Examples of habitat restoration projects include dam removal projects, stream bank stabilization and stream channel reconfiguration.]

(E) Nonpoint source load reductions that result from the implementation of BMPs shall:

- (1) Except as provided in paragraph (E)(2) of this rule, be eligible to generate water quality credits in direct proportion to the per cent local contribution, where the BMPs are funded under a federal grant program; and
- (2) Not be eligible for the generation of water quality credits where the BMPs are partially or in total funded by a grant, under section 319 of the Federal Water Pollution Control Act or through Ohio EPA's water resource restoration sponsor program.

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