

State Water Quality Trading Programs/Nutrients: October 2017 U.S. Government Accountability Office Report



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The United States Government Accountability Office (“GAO”) issued an October 2017 report titled: *Some States Have Trading Programs to Help Address Nutrient Pollution, but Use Has Been Limited (“Report”)*

See GAO-18-84.

United States Senator Sheldon Whitehouse asked GAO to examine state nutrient credit trading programs.

A number of areas in the country are utilizing water quality trading as one approach to address water quality goals. Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permits issued at both federal and state level are increasingly including stringent limits applicable to the discharge of nutrients such as phosphorus or nitrogen.

Costs associated with moving nutrients from a point source can be significant. Non-point source discharges may often be reduced at a lower cost on a pollutant basis than the point source discharges. Therefore, trading programs may allow facilities facing higher pollution costs to meet that regulatory obligation by purchasing environmental equivalent (or superior) pollution reductions from another source at a lower cost.

Arkansas is an example of a state developing a water quality trading program addressing nutrients. Legislation enacted in the 90th Arkansas General Assembly provides the Arkansas Department of Environmental Quality (“ADEQ”) and Arkansas Pollution Control and Ecology Commission (“Commission”) the authority to establish and regulate water quality trading in the state.

The Arkansas legislation provided the Commission the authority to promulgate rules and regulations. Further, the legislation provides that any nutrient trading regulation adopted by the Commission may address issues such as water quality trading and exchanges, nutrient water quality compliance association, nutrient water quality trading credits, water quality offsets and a number of related matters.

ADEQ is provided the authority to include terms and conditions in permits to allow the eligible permit holder to use water quality trading arrangements and/or issue a permit to eligible associations as a means for multiple eligible permit holders to collectively satisfy their aggregate limits for one or more nutrient water quality parameters. Further, an Arkansas Nutrient Water Quality Trading Advisory Panel is helping develop the program.

The GAO Report examines:

1. the extent to which nutrient credit trading programs have been used and what the outcomes of the program have been;
2. how states and EPA oversee nutrient credit trading programs; and
3. what key factors stakeholders view as affecting participation in nutrient credit trading.

Topics also addressed included:

1. Referencing Eleven States (examination of three) with Nutrient Credit Trading Programs (as of 2014)
2. State Oversight of Nutrient Credit Trading Programs (approval and verification of credit generation)
3. EPA Oversight
4. Discharge Limits/Challenge of Measuring Non-point Sources' Nutrient Reductions

[A copy of the GAO Report can be downloaded here.](#)