Ohio EPA
2016 Compliance Assistance Conference

Division Chiefs
Updates and Program Priorities

Tiffani Kavalec, Chief, DSW

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Ohio Environmental Protection Agency

Ohio Division of Surface Water Updates

Tiffani Kavalec, Chief

August 31, 2016

Ohio Environmental Protection Agency

Rules

PESO

- PRE – External Stakeholder Outreach

ESO

- External Stakeholder Outreach
  - Common Sense Initiative (CSI) Office

IPR

- Interested Party Review

- CSI → Original File
- Final File

Ohio Environmental Protection Agency

DSW - Rules

New Rules in Development:

- Certified Water Quality Professional (WQCP) Program
- 401 stream rules and mitigation performance standards & ratios
- WQS – Triennial Review

Ohio Environmental Protection Agency

Water Quality Certified Professional (WQCP)

- Legislation was passed in last summer's Budget Bill
- Gives Director authority to establish rules:
  - WQCP to **determine existing aquatic life use** and to **categorize wetlands** in support of a **401 WQC or ISP**
  - Establish tests and competencies
  - Discipline provisions
  - Renewals and fees
  - Authorize audits and standards, etc

Ohio Environmental Protection Agency

WQCP

- Did not include stakeholder input Ohio EPA received after H.B. 64 was introduced
  - WQCP not required, 90 day incentive, multi-sector workgroup, audits, and performance online
- Ohio EPA was hoping to get language updated by summer 2016, but now in S.B. 333
- Conducted a survey

Ohio Environmental Protection Agency

WQCP / 401 - Rules

- Starting to draft a framework for the rules
- Would hope to have language to bring to stakeholders based on their feedback late summer
- 401 stream existing use & stream performance standards and mitigation ratio rules – stakeholder meetings beginning in July

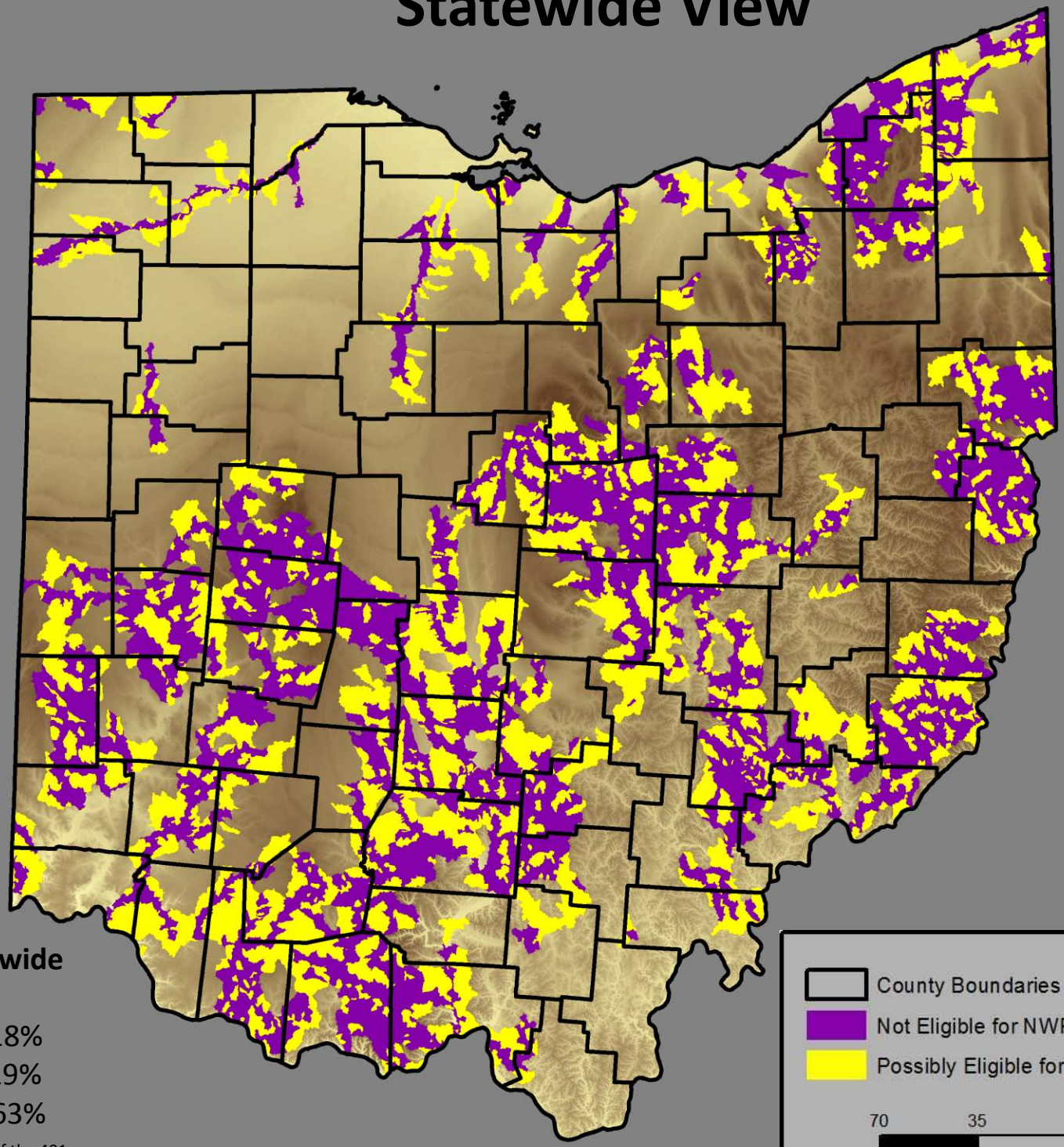
Ohio Environmental Protection Agency

401 WQC for Nationwide Permits

- Ohio EPA developed a GIS-based approach that defines stream eligibility
- Takes advantage of our robust data on high quality waters and minimizes need for individual stream assessments
- **Objective:** To protect known "high quality waters" which are defined as Coldwater*, Exceptional Warmwater, Seasonal Salmonid Aquatic Life Uses, Superior High Quality Waters or Outstanding State Waters (upper antidegradation tiers) *and those water bodies that support them.*

Ohio Environmental Protection Agency

Statewide View



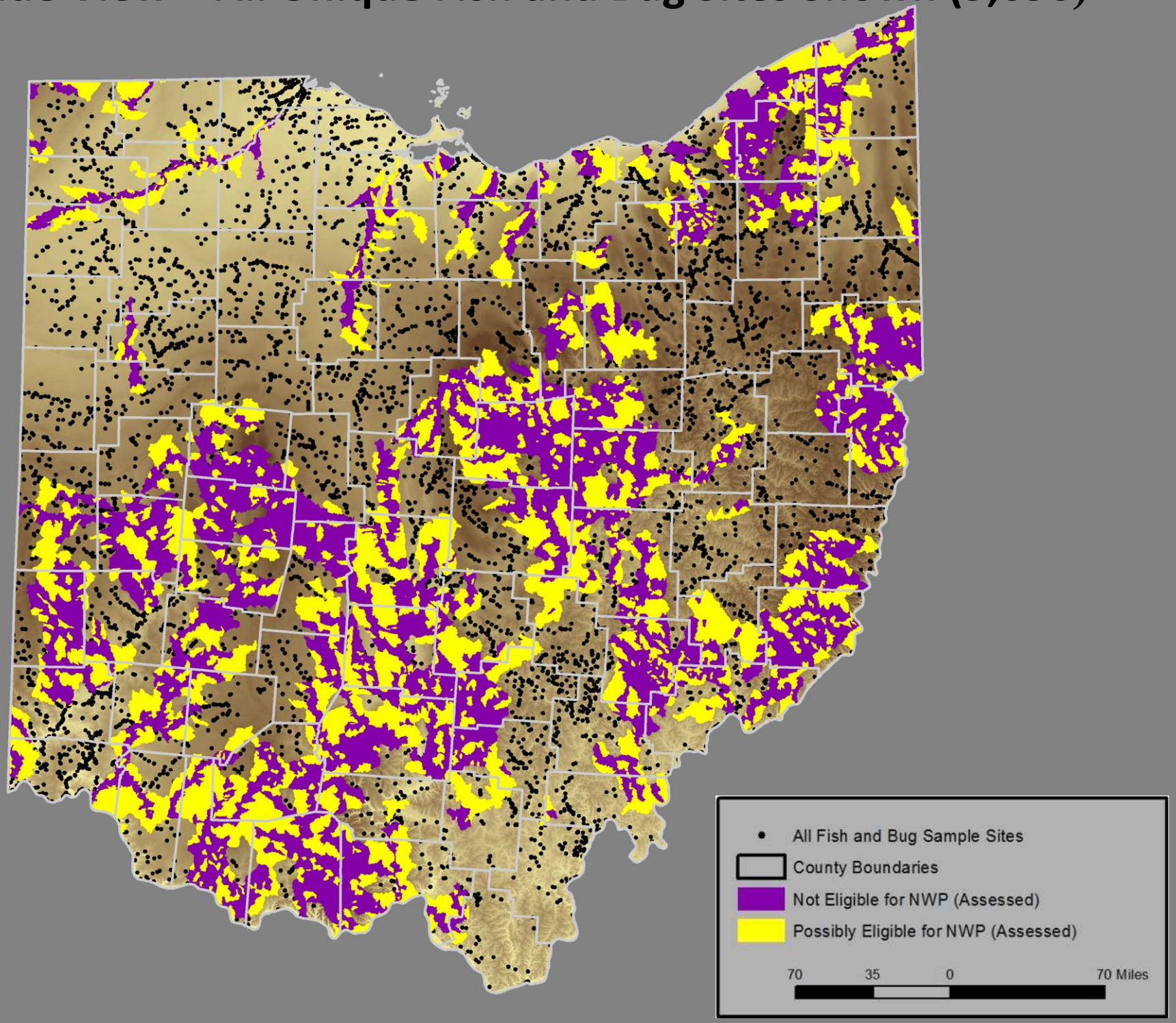
* Based on most recent update of existing use (designated in rule and assessed) statewide GIS layer (2015).

Approximate Statewide
<u>Eligibility Statistics</u>

Not eligible = 18%
Possibly eligible = 19%
Eligible* = 63%

*Given that all other conditions of the 401 WQC for the NWPs are satisfied.

Statewide View – All Unique Fish and Bug Sites Shown (9,690)



401 WQC for Nationwide Permits

- Public noticed by Army Corps through July 15th
- Ohio EPA effective date of the modified NWP
- Expires in March 2017
  - Gives us time to pilot the new process

Ohio Environmental Protection Agency

Ohio Supreme Court TMDL Decision

- On March 24, 2015, the Ohio Supreme Court issued an opinion on the *Fairfield County Board of Commissioners v. Nally* case.

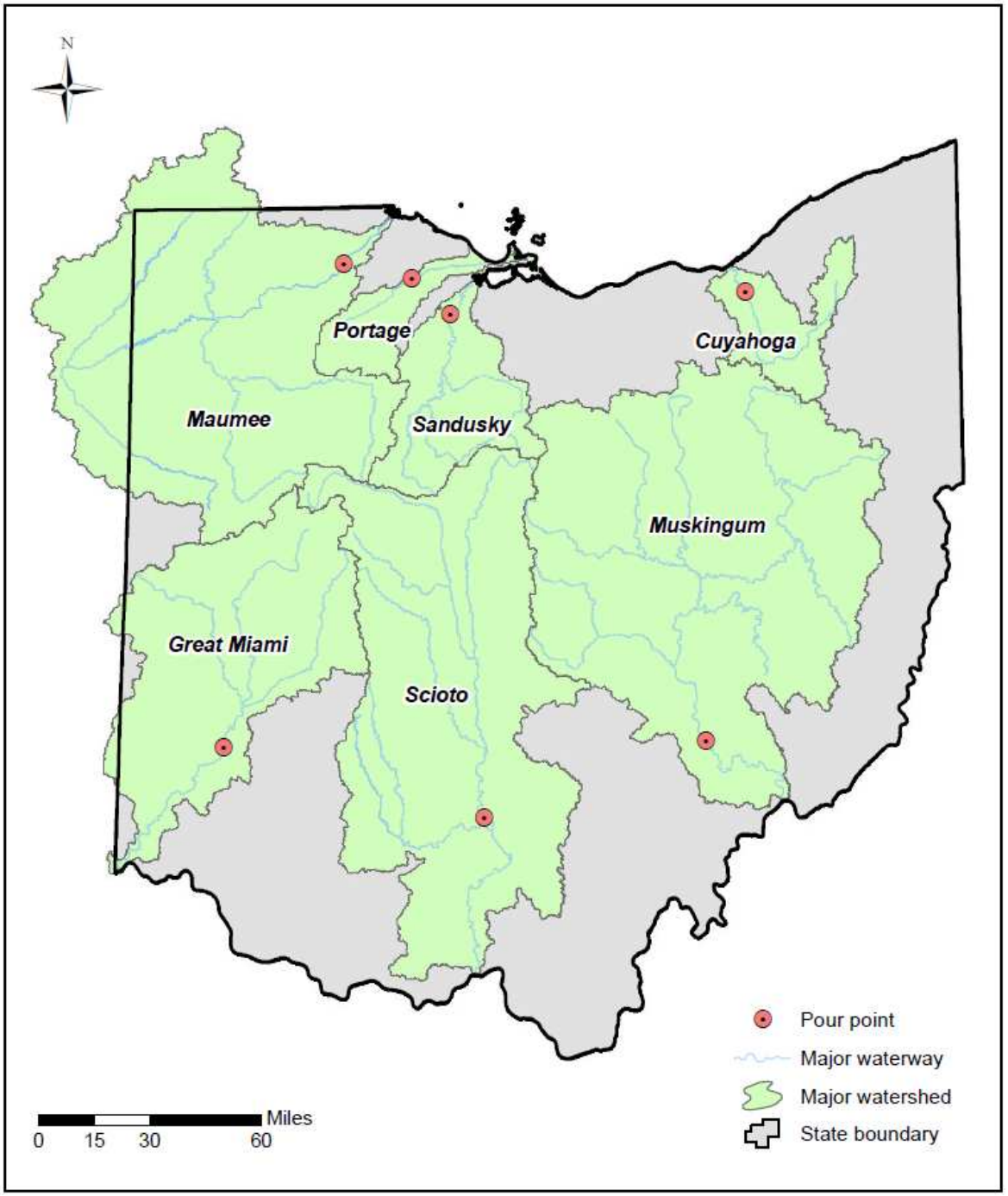
- The Court found that a TMDL is a rule and must be promulgated in accordance with 119 before it can be submitted to U.S. EPA for approval and before it is used for purposes of implementing it via NPDES permits.

Ohio Environmental Protection Agency

Nutrient Mass Balance Study

- Total phosphorus (dissolved + particulate) and total nitrogen (organic N + ammonia + nitrate)
- "Balance" computed at monitoring point (National Center for Water Quality Research/Heidelberg station) to determine how much load from Point Source (PS) and how much from Non-Point Source (NPS)
  - Seven Watersheds – 63% of Ohio's land area
    - **Four Lake Erie**: Maumee, Portage, Sandusky and Cuyahoga
    - **Three Ohio River**: Great Miami, Scioto and Muskingum
  - Loads estimated for area downstream of monitoring point

Ohio Environmental Protection Agency



Area Covered

- 26,000 sq. mi.
- 63% of Ohio's land area

Ohio Environmental Protection Agency

Nutrient Mass Balance Study

- Motivation for Study
  - Statutory obligation ORC 6111.03(U) requires Agency to develop total load, discriminate between sources, and report every 2 years
  - Guide Agency policy and management by understanding relative loads (by major Ohio watersheds) and load sources (e.g., CSO vs. NPS vs. wastewater)
  - Support national programs – Annex 4 (GLWQA) and Gulf of Mexico Hypoxia Task Force

Ohio Environmental Protection Agency

Implementation of Senate Bill 1

- Part 2 – The technical and feasibility plan
- In addition, **not later than** December 1, 2017, a publicly owned treatment works with a design flow of one million gallons per day or more that, on the effective date of this amendment, is not subject to a phosphorus limit **shall complete and submit to the director** a study that evaluates the technical and financial capability of the existing treatment facility to reduce the final effluent discharge of phosphorus to one milligram per liter using possible source reduction measures, operational procedures and unit process configurations.

Ohio Environmental Protection Agency

Implementation of Senate Bill 1

Ohio Environmental Protection Agency

Division of Surface Water: *Technical and Financial Capability Study to Reduce Phosphorus*

(Read accompanying instructions carefully before completing this form)
This form may be used by publicly owned treatment works with a design flow of 1.0 million gallons per day or more or otherwise designated as a major by the director and that did not have total phosphorus limits as of July 1, 2015 to fulfill obligations set forth in ORC Section 6111.03 that require a study of the technical and financial capability of the existing treatment works to reduce the final effluent discharge of phosphorus to one milligram per liter using possible source reduction measures, operational procedures, and unit process configurations.

Completion of this form does not take the place of any previously required nutrient related reports. Submit this form to Ohio EPA Division of Surface Water by December 1, 2017.

I. Applicant Information

Facility Name:	Click here to enter text.	Ohio EPA Permit Number:	Click here to enter text.
Outfall Number:	Click here to enter text.	Type of Treatment::	Choose an item.

II. Total Phosphorus Data from the Previous Twelve Months

Mark which of the following best describes the numeric total phosphorus concentrations in the influent at your facility:	Choose an item.

Include the average monthly effluent concentration for total phosphorus for the most recent twelve months below. Unless you marked "Unknown" above, also include the average monthly influent concentration for total phosphorus as well.

Month	Average Monthly Concentration of Total Phosphorus [Parameter Code 00665]	
	Influent (mg/L)	Final Effluent Outfall (mg/L)
Choose an item.	Click here to enter text.	Click here to enter text.
Choose an item.	Click here to enter text.	Click here to enter text.
Choose an item.	Click here to enter text.	Click here to enter text.
Choose an item.	Click here to enter text.	Click here to enter text.
Choose an item.	Click here to enter text.	Click here to enter text.
Choose an item.	Click here to enter text.	Click here to enter text.
Choose an item.	Click here to enter text.	Click here to enter text.
Choose an item.	Click here to enter text.	Click here to enter text.
Choose an item.	Click here to enter text.	Click here to enter text.
Choose an item.	Click here to enter text.	Click here to enter text.
Choose an item.	Click here to enter text.	Click here to enter text.
Choose an item.	Click here to enter text.	Click here to enter text.

Based on the above discharge information, does the permittee believe that it is currently able to discharge total phosphorus at or below a one milligram per liter monthly average concentration without any additional changes to treatment processes?

Yes ☐ (Continue to Section III)	No ☐ (Continue to Section IV)

III. Identification of the methods currently used by the permittee to reduce the discharge of total phosphorus to a monthly average concentration of 1.0 mg/L or lower. Identify below a summary of source reduction measures, operational procedures (including biological nutrient removal (BNR)), and unit process configurations that have previously been performed and contribute to decreased total phosphorus discharges. Once this section is completed, continue to section VI.

Example: My facility already meets a monthly 1 mg/L total phosphorus concentration. This is achieved via biological nutrient removal. We also evaluated possible source reductions and oxygen cycling processes previously. Click here to enter text.

IV. Identification of the most economically feasible method(s) to reduce the discharge of total phosphorus to a monthly average concentration of 1.0 mg/L. Complete the following questions to identify which phosphorus reduction methods have been attempted and which could be used in the future to reduce the total phosphorus monthly average concentration of 1.0 mg/L or lower.

IV. A. Was **Source Reduction** Evaluated Previously?	Unknown ☐	Yes ☐	No ☐
Do you plan to incorporate **Source Reduction** as part of your study?		Yes ☐	No ☐
IV. B. Were **Operational Changes** Evaluated Previously?	Unknown ☐	Yes ☐	No ☐
Do you plan to incorporate **Operational Changes** as part of your study?		Yes ☐	No ☐
IV. C. Were **Unit Process Configurations** Evaluated Previously?	Unknown ☐	Yes ☐	No ☐
Do you plan to incorporate **Unit Process Configurations** as part of your study?		Yes ☐	No ☐
IV. D. Was **Additional Treatment** Evaluated Previously?	Unknown ☐	Yes ☐	No ☐
Do you plan to incorporate **Additional Treatment** as part of your study?		Yes ☐	No ☐

IV. E. Include a brief summary as to how the procedures identified above could be performed and/or installed to reduce the discharge of total phosphorus to a 1.0 mg/L final effluent discharge concentration or lower.

Example: My facility believes the following procedures would reduce phosphorus discharges below 1.0 mg/L. We plan to evaluate all industrial sources for elevated phosphorus concentrations and limit phosphorus where feasible. Assuring that this reduction would not be significant enough to achieve a facility discharge of total phosphorus to 1.0 mg/L final effluent discharge, we would install an alum chemical feed tank and dosing mechanism. Click here to enter text.

V. Economic Information and Total Estimated Costs of Reducing Total Phosphorus Concentrations

Were chemical treatment additions identified in Section IV as part of the most economically feasible method(s) to reduce the discharge of total phosphorus to a monthly average concentration of 1.0 mg/L or lower?

Yes ☐ (Continue to Section V.A)	No ☐ (Continue to Section V.B)

V.A. Economic Information Associated with Chemical Feed

Capital Cost Associated with Chemical Feed:

Chemical Tank Cost:	Click here to enter text.	Pump Cost:	Click here to enter text.
Piping and Dosing Mechanism Cost:	Click here to enter text.	Any Other Expected Capital Costs (e.g.: new building):	Click here to enter text.
Total Associated Capital Costs (summation of the above capital costs):		Click here to enter text.	

Associated Operations and Maintenance (O&M) Cost Associated with Chemical Feed:

Monthly Chemical Cost:	Click here to enter text.	Monthly Labor Costs:	Click here to enter text.
Monthly Electric Cost:	Click here to enter text.	Other Monthly Costs:	Click here to enter text.
Additional Monthly Costs Associated with Increased Sludge Volumes:		Click here to enter text.	
Monthly Associated O&M Costs (summation of the above O&M costs):		Click here to enter text.	

V.B. Economic Information Associated with Non-Chemical Feed Procedures

Complete the following information for each option identified in Section IV. Please provide an explanation for the costs (electric cost, labor, etc.) in the column titled 'Reasoning':

TP Reduction Method:	Capital Cost:	Monthly O&M Cost:	Reasoning:
Choose an item.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Choose an item.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Choose an item.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Choose an item.	Click here to enter text.	Click here to enter text.	Click here to enter text.

VI. Certification

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those persons immediately responsible for obtaining the information contained in the form, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Name:	Click here to enter text.	Official Title:	Click here to enter text.
Signature:		Date Signed:	Click here to enter text.

EPA Form XXX (Revision and Date XXX)

New Electronic Business Services (EBS)

- STREAMS (October 2015 – Summer 2016)
  - Surface Water Tracking, Reporting & Electronic Application Mngt System
  - NPDES apps & renewal forms, NOI, NOT, transfers, antideg, mods…
  - Pre-populated facility info streamed from our database
  - Data validation prior to submittal to ensure accuracy and completeness
  - One-click application submittal
  - Dozens of eReports (ex. annual sludge report, noncompliance, etc.)
- ePayment Service
  - Pay all fees immediately (or later) w/credit card or electronic check

All accessible in your eBusiness Center account!

Ohio Environmental Protection Agency

STREAMS (Currently available)

Surface Water Tracking, Reporting, Electronic Application Management System

General NPDES Applications

- Bulk Petroleum Fuel Storage Facilities
- Coal Surface Mining Activities
- Construction Site Storm Water - Big Darby Creek Watershed
- Construction Site Storm Water - Olentangy Watershed
- Construction Site Storm Water
- Geothermal System Discharges
- Hydrostatic Test Water
- Industrial Storm Water
- Marina Storm Water
- Non-contact Cooling Water
- Pesticide Application Discharges
- Petroleum Related Corrective Action
- Small MS4
- Small Sanitary Discharges (No BADCT)
- Small Sanitary Discharges
- Temporary Wastewater Discharges
- Water Treatment Plants

Co-permittee Permit Applications

- Construction and Small MS4 Co-permit

Other Applications

- General, Notice of Termination
- Transfer of Ownership

No Exposure Applications

- No Exposure Certification for Storm Water Permitting

Time saved is substantial for both the regulated community and Ohio EPA/DSW

Ohio Environmental Protection Agency

June/July 2016
New & Renewal Applications

Individual NPDES Applications

Form 1 – General Information (EPA 3510-1)
Form 2A – Publicly Owned Treatment Works (EPA 3510-2B)
Form 2B – Concentrated Animal Feeding Operations (EPA 3510-2B)
Form 2C - Manufacturing, Commercial, Mining & Silvicultural Operations (EPA 3510-2C)
Form 2D – Discharge Process Water (EPA 3510-2D)
Form 2E – Do Not Discharge Process Water (EPA 3510-2E)
Form 2F – Storm Water Industrial Activity (EPA 3510-2F)
Form 2S – Sewage Sludge (Biosolids) Treatment (EPA 4497)
Application for Modification (EPA 4233)
Application for Transfer (EPA 4234)
Antidegradation Addendum

Household Sewage Treatment Systems (HSTS) General Permit Application

Pretreatment Applications

Indirect Discharge Application (EPA 4223)
Indirect Permit Transfer Application (EPA 4116)

Ohio Environmental Protection Agency

June/July 2016
NPDES e-Reports Deploy

- NPDES Non-compliance Report
- NPDES Sanitary Sewer Overflow Annual Report
- NPDES Compliance Schedule Update Report
- NPDES Municipal Separate Storm Sewer System Annual Report
- NPDES Pretreatment Annual Report
- NPDES Pretreatment Industrial Users Periodic Compliance Monitoring Report
- NPDES Pretreatment Generic Baseline Monitoring Report For Categorical Standards
- NPDES Biomonitoring Report Form Acute & ChronicToxicity Test
- NPDES Priority Pollutant Report

And many more to come.

Ohio Environmental Protection Agency

Summer 2016
401 Reporting Forms

Annual Sewage Sludge Report
Currently Available

401 Forms
401 Pre-Application Request Form
401 Water Quality Certification Application Form
Proposed Lakes Impact Table
Proposed Streams Impacts and Mitigation Table
Proposed Wetland Impacts and Mitigation Table
Director's 401 Authorization Request
Level 1 Isolated Wetland Permit Application Form
Level 2 Isolated Wetland Permit Application Form
ORAM Form (as spreadsheet)
HHEI (as spreadsheet)
QHEI (as spreadsheet)

Ohio Environmental Protection Agency

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Ohio Environmental Protection Agency

Ohio EPA
Compliance Assistance Conference
Update on
Air Program Developments

Bob Hodanbosi – Ohio EPA

August 31, 2016

Ohio Environmental Protection Agency

Topics

- Clean Power Plan
- Ozone
- Startup, Shutdown & Malfunction SIP Call
- Permitting Update (as time permits)

Ohio Environmental Protection Agency

Clean Power Plan

Ohio Environmental Protection Agency

U.S. EPA Carbon Regulation of Power Sector

Two actions designed to significantly reduce carbon emissions from the power sector

- Carbon Pollution Standards –new, modified and reconstructed sources
- Clean Power Plan (CPP) –existing sources
  - Federal Plan proposal and model rule

- **U.S. EPA's stated CPP goals are to**
  - Achieve significant carbon emission reductions in 2030
  - Deliver an approach that gives states and utilities time to preserve ample, reliable and affordable power
  - Spur increased investment in non-carbon based renewables

Ohio Environmental Protection Agency

U.S. EPA's Clean Power Plan

Final Rule - October 23, 2015

- U.S. EPA rule requires a 32% reduction in emissions of CO_2 across the country.
- Establish carbon dioxide emissions rates for coal and gas power plants that reflect "best system of emission reduction" (BSER)
- In the final rule, U.S. EPA identified three "Building Blocks" and calculated performance rates using these assumptions
  - Block 1: Improve heat rate efficiency at individual units
  - Block 2: Increase existing NGCC generation
  - Block 3: Increase non-carbon based generation

Block 4: Energy Efficiency has been removed from consideration as BSER in the final CPP.

Ohio Environmental Protection Agency

Ohio's CPP Goals

Each state is tasked with developing a plan to reach their respective target.

	Rate Based (lbs CO2/MWh)	Mass Based (tons CO2)
• 2012 Baseline	1,900	102,239,220
• Proposed CPP	1,338	-
• Interim Period 2022-2029	1,383	82,526,513
• Final Goal 2030+	1,190	73,769,806

Between 2005 and 2014 Ohio has already experienced a reduction in CO_2 emissions of 30% as a result of market forces and federal regulations including the Mercury and Air Toxics Standard (MATS).

Ohio Environmental Protection Agency

ORDER LIST: 577 U.S.)

TUESDAY, FEBRUARY 9, 2016

ORDER IN PENDING CASE

15A773 WEST VIRGINIA, ET AL. V EPA, ET AL.

The application for a stay submitted to The Chief Justice and by him referred to the Court is granted. The Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64,662 (October 23, 2015), is stayed pending disposition of the applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of the applicants' petition for a writ of certiorari, if such writ is sought. If a writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for a writ of certiorari, this order shall terminate when the Court enters its judgment.

Justice Ginsburg, Justice Breyer, Justice Sotomayor, and Justice Kagan would deny the application.

Clean Energy Incentive Program (CEIP)

- On June 30, 2016 US EPA proposed the CEIP
- Provides for "extra allowances" to states for programs that start early and provide energy efficiency programs to low income homes
- 300 million allowances nationwide
- Any additional allowances help regulated entities to comply
- US EPA methodology to prove energy savings appear overly rigorous – need to prove that less energy is needed on the grid.
- Comments due September 2, 2016

Ohio Environmental Protection Agency

What are we doing/not doing?

- Continue to assess landscape after U.S. Supreme Court stay
- Prepared comments on Clean Energy Incentive Program
- Not going forward with listening sessions/not developing compliance plans/not working on extension request
- Returned borrowed staff back to other assignments
- Assist AG's office with litigation

Ohio Environmental Protection Agency

OZONE

Ohio Environmental Protection Agency

Ozone Formation

- Complex atmospheric chemistry (O_3)
- Combination of hydrocarbons (VOCs), nitrogen oxides, and sunlight plus higher temperatures
- Summer conditions – ozone exceedances occur May through mid-September in Ohio

Ohio Environmental Protection Agency

2008 Ozone Standard

- U. S. EPA adopted a standard of 0.075 ppm for ozone in 2008
- As of summer 2015, Cleveland, Columbus and Cincinnati areas met standard
- Submitted redesignation packages for Cleveland, Columbus, and Cincinnati for 2008 standard
- However, before we can have areas redesignated, U.S. EPA adopts more stringent standard of 0.070 ppm

Ohio Environmental Protection Agency

2015 Ozone Standard Implementation Timeline

- October 1, 2015 – U.S. adopts new standards – 0.070 ppm
- October 1, 2016 – States submit recommendations for nonattainment areas
- October 1, 2017 – U.S. EPA finalizes nonattainment areas
  - Effective date “usually” 60 days later …~December 1, 2017

Ohio Environmental Protection Agency

2015 Ozone Standard Implementation Timeline

- ~December 1, 2019 – Emission inventory and emission statements due for marginal nonattainment areas.
  - Two years from effective date of designations
  - Based on previous classifications and ambient air quality data, all Ohio areas should be marginal nonattainment
- ~December 1, 2020 – Attainment date for marginal
  - Three years from effective date of designations

Ohio Environmental Protection Agency

Ozone Exceedances by Year
(through July 20, 2016)

Year	0.125 ppm 1-Hour	0.084 ppm 8-Hour	0.075 ppm 8-Hour	0.070 ppm 8-Hour
2005	5	192	688	1193
2006	None	39	236	505
2007	None	110	541	1037
2008	None	32	171	419
2009	None	4	31	138
2010	None	20	162	387
2011	None	38	215	434
2012	None	96	329	701
2013	None	2	14	65
2014	None	0	11	69
2015	None	1	16	91
2016	None	2	37	143

Ohio Environmental Protection Agency

Revised Ozone Standard				
				% above standard (2014-2016) (thru 7/20/16)
City	2012-2014 Data (ppb)	2013-2015 Data (ppb)	2014-2016 Data (ppb)	at 70 ppb
Canton	70	69	69	
Cleveland	78	73	74	5.7%
Columbus	75	71	71	1.4%
Cincinnati	75	71*	72	2.8%
Dayton	72	69	70	
Lima	71	66	66	
Toledo	71	65	65	
Youngstown- Warren	72	67	68	

*monitor in Northern Kentucky measures 71 ppb

Ohio Environmental Protection Agency

Projected Nonattainment 0.070 PPM Standard (2014-2016)

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Startup, Shutdown & Malfunction SIP Call

Ohio Environmental Protection Agency

Startup, Shutdown & Malfunction SIP Call

- U. S. EPA settled a lawsuit with the Sierra Club that addresses rules associated with startup, shutdown and malfunctions in 36 states
- U.S. EPA proposed a “SIP Call” in 36 states (including Ohio) that require that states modify their rules because these rules contain language “inconsistent with the Clean Air Act”
- These states rules were previously approved by U.S. EPA – but are now objectionable
- State rule allow “Director’s discretion”
- U.S. EPA claims citizens suits are prevented

Ohio Environmental Protection Agency

Startup, Shutdown & Malfunction SIP Call

- U. S. EPA went further in Ohio…..
- Even though not part of the lawsuit, U.S. EPA identified the Scheduled Maintenance Rule as also one of the objectionable rules
- U.S. EPA did not ask questions on how Ohio rules operate
- U.S. EPA did not consult with Ohio EPA prior to lawsuit settlement
- U.S. EPA made incorrect errors and assumptions

Ohio Environmental Protection Agency

Startup, Shutdown & Malfunction SIP Call

- Objectionable Rule 1: OAC 3745-15-06(C) – Malfunction of equipment
  - The Director retains the responsibility to evaluate any report submitted pursuant to this rule. The Director shall take appropriate action upon a determination that the reporting requirements of this rule have not been satisfied, that the equipment was not properly operated and maintained prior to breakdown, that shutdown of the source or operation during the period of maintenance or breakdown was or has become practicable, that the shutdown or breakdown was or has become avoidable, or was induced or prolonged in bad faith, or that the emissions endanger or tend to endanger the health or safety of the public.

Ohio Environmental Protection Agency

Startup, Shutdown & Malfunction SIP Call

- Objectionable Rule 1: OAC 3745-15-06(C) – Malfunction of equipment
- Where is Director's discretion" "Director shall take appropriate action…"
- U.S. Southern District of Ohio found that the Ohio rule contains objective standards and are enforceable.

Ohio Environmental Protection Agency

Startup, Shutdown and Malfunction SIP Call

- Objectionable Rule 2: OAC rules 3745-17-07(A)(3)(c) and 3745-17-07(B)(11)(f) – Visible Emission Rules
  - The malfunction of any air contaminant source or the malfunction/shutdown of air pollution control equipment associated with any air contaminant source, if the owner or operator of said air contaminant source or air pollution control equipment complies with the requirements of rule 3745-15-06 of the Administrative Code and none of the conditions listed in paragraph (C) of rule 3745-15-06 of the Administrative Code exists.

Ohio Environmental Protection Agency

Startup, Shutdown and Malfunction SIP Call

- Objectionable Rule No. 2:: OAC rules 3745-17-07(A)(3)(c) and 3745-17-07(B)(11)(f) – Visible Emission Rules
  - These rules exempt visible emission requirements during malfunctions – does not exempt the malfunction
  - Visible emission standard is not directly related to ambient air quality standard
  - Sources must still meet conditions in OAC 3745-15-06(C)

Ohio Environmental Protection Agency

Startup, Shutdown and Malfunction SIP Call

- Objectionable Rule 3: OAC 3745-15-06(A)(3): Scheduled maintenance
- Ohio EPA issues Director's Letter that allows the shutdown of air pollution control equipment under certain conditions;
  - "In cases where a complete source shutdown may result in damage to the air pollution sources or is otherwise impossible or impractical, the owner or operator may request authorization to continue operating the sources during the scheduled maintenance of air pollution control equipment."

Ohio Environmental Protection Agency

Startup, Shutdown and Malfunction SIP Call

- Objectionable Rule 3: OAC 3745-15-06(A)(3): Scheduled maintenance:
  - U. S. EPA says we cannot allow this. Source should shutdown or state develop individual rules for each source
  - Not realistic – many examples of impracticality – glass furnaces, coke ovens, etc…

Ohio Environmental Protection Agency

Startup, Shutdown and Malfunction SIP Call

- Does not “exempt” emission exceedances – still must be reported as a deviation for Title V purposes

- Ohio EPA processes about 2 – 3 requests each week

Ohio Environmental Protection Agency

Startup, Shutdown and Malfunction SIP Call

- Objectionable Rule 4: - OAC 3745-14-11(D) – NOx from Cement Plants
  - The requirements of this rule shall not apply to the following periods of operation:
    - (1) Start-up and shutdown periods and periods of malfunction, not to exceed thirty-six consecutive hours; and
    - (2) Regularly scheduled maintenance activities
- Not our language – U.S. EPA suggested we add this during the rulemaking process
- The revised NSPS for cement plants allows for an “affirmative defense” argument. Thrown out by D.C. Court of Appeals

Ohio Environmental Protection Agency

Startup, Shutdown and Malfunction SIP Call

- U.S. EPA has not shown that Ohio's rules cause air quality violations
- Clean Air Act puts responsibility on states to meet air quality standards
- Clean Air Act also gives primary authority to enforce air quality rules to states, not U.S. EPA – states should be able to interpret/apply their own rules

Ohio Environmental Protection Agency

Startup, Shutdown and Malfunction SIP Call

- Ohio EPA provided detailed response to U.S. EPA on the proposal

- Requested that the Ohio Attorney General appeal SIP Call

Ohio Environmental Protection Agency

Startup, Shutdown and Malfunction SIP Call

- US EPA has gone further and has proposed to modify Title V permit requirements to remove ability by states to include SS&M protections into Title V permits.

- US EPA Comment period goes to August 15, 2016 - https://www.gpo.gov/fdsys/pkg/FR-2016-06-14/pdf/2016-14104.pdf

Ohio Environmental Protection Agency

Startup, Shutdown and Malfunction SIP Call – State Rule Revision Process

- Several draft of rules sent to stakeholders
- Wide range of comments
- Received comments on “Early Stakeholder Outreach” solicitation.
- Will have another set of draft rules issued soon.

Ohio Environmental Protection Agency

Permitting Update

- Construction Permits remain priority for agency
- Ohio EPA specifically focused on resolving some of the “older” permits
- Goal is to have no construction permits older than 180 days – have made progress but not yet reached goal
  - May 2015 had 40 late pending permits>180 days; May 2016 there were 20 permits
  - In 2015, average permit issuance time was 80 days, in 2016 the average is 74 days

Ohio Environmental Protection Agency

Permitting Update

- May need to send back permits with incomplete data
- Scheduling a LEAN event to look at ways to improve processing internally
- Continuing to utilize the rush list to help meet company goals
  a. Company contacts Mike Hopkins – ask to be put on rush list
  b. Helps us know about timing needs of company for important permits
  c. Makes sure staff are aware of the timing needs and whether additional staff is needed for processing permit
  d. Helps ensure permit issuance meets company requirements
  e. Can be paired with periodic biweekly calls to monitor progress on permit review

Ohio Environmental Protection Agency

Questions?

Ohio Environmental Protection Agency