



General Assembly

February Session, 2000

Amendment

LCO No. 5464

Offered by:

SEN. DAILY, 33rd Dist.

To: Subst. Senate Bill No. 36

File No. 594

Cal. No. 390

"An Act Concerning Nitrogen Reduction Permitting And Trading."

1 Strike out everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) As used in this section and sections 2 to 5,
4 inclusive, of this act:

5 (1) "Equivalency factor" means a ratio of the unit response of
6 dissolved oxygen to nitrogen in Long Island Sound for each publicly
7 owned treatment works based on the geographic location of the
8 specific publicly owned treatment works' discharge point divided by
9 the unit response of the geographic area with the highest impact;

10 (2) "Equivalent nitrogen reduction credit" means a nitrogen
11 reduction credit multiplied by the equivalency factor;

12 (3) "Equivalent pounds" means the actual pounds of nitrogen
13 discharged by a publicly owned treatment works multiplied by the
14 equivalency factor for that publicly owned treatment works;

15 (4) "Individual nitrogen waste load allocation" means that portion of
16 the state-wide waste load allocation apportioned to an individual
17 publicly owned treatment works and shall be construed as an effluent
18 standard or limitation for purposes of 33 USC 1365;

19 (5) "Nitrogen" means the total of ammonia nitrogen, organic
20 nitrogen, nitrite nitrogen and nitrate nitrogen;

21 (6) "Nitrogen Credit Management Board" means the board
22 established pursuant to section 3 of this act;

23 (7) "Nitrogen credit trading program" means the program within the
24 Department of Environmental Protection established pursuant to
25 section 4 of this act;

26 (8) "Nitrogen reduction credit" means the difference between the
27 annual total nitrogen load specified for a publicly owned treatment
28 works in the general permit for nitrogen discharges and the annual
29 total nitrogen load discharged by that publicly owned treatment works
30 when the actual discharge is less than the allocated load for that
31 period, expressed as pounds of nitrogen per day;

32 (9) "Nonpoint source" means any source of nitrogen originating
33 from other than a readily discernable end of pipe source;

34 (10) "Publicly owned treatment works" means a system used for the
35 collection, treatment or disposal of sewage from one or more parcels of
36 land and that discharges to the waters of the state and is owned by a
37 municipality or the state;

38 (11) "State-owned equivalent nitrogen reduction credits" means the
39 difference between the annual state-wide waste load allocation
40 established in the total maximum daily load and the sum of the annual
41 discharges for all publicly owned treatment works;

42 (12) "State-wide waste load allocation" means the maximum
43 allowable nitrogen load from publicly owned treatment works into
44 Long Island Sound that will meet water quality standards as specified

45 in the total maximum daily load;

46 (13) "Total maximum daily load" means the total maximum daily
47 load analysis to achieve water quality standards for dissolved oxygen
48 in Long Island Sound as established by the Department of
49 Environmental Protection and as approved by the United States
50 Environmental Protection Agency; and

51 (14) "Unit response" means the reaction of dissolved oxygen in Long
52 Island Sound to a change in nitrogen loading of 1.0 pound.

53 Sec. 2. (NEW) Notwithstanding any provision of section 22a-430 or
54 22a-430b of the general statutes and notwithstanding nitrogen limits
55 specified in individual discharge permits issued pursuant to said
56 section 22a-430, the Commissioner of Environmental Protection shall
57 issue a general permit specifying effluent limits for nitrogen in
58 accordance with the total maximum daily load. In order to meet water
59 quality standards, the commissioner may incorporate compliance
60 schedules into permits issued under this section and said sections 22a-
61 430 and 22a-430b. The general permit shall establish effluent limits for
62 nitrogen and shall establish an annual compliance schedule for
63 nitrogen reduction for each publicly owned treatment works. Under
64 the general permit, the commissioner may require publicly owned
65 treatment works to (1) meet effluent limits or other conditions for
66 discharging nitrogen to the waters of the state pursuant to their
67 individual waste load allocations, (2) comply with monitoring
68 requirements as set forth in the general permit, or (3) comply with any
69 other requirements as determined by the commissioner necessary to
70 carry out the provisions of this section. Publicly owned treatment
71 works may participate in the nitrogen credit trading program in order
72 to comply with effluent limits for nitrogen specified in the general
73 permit.

74 Sec. 3. (NEW) (a) There is established a Nitrogen Credit
75 Management Board to assist and advise the commissioner in
76 administering the nitrogen credit trading program. The board shall

77 consist of the following members: (1) The Commissioner of
78 Environmental Protection or the commissioner's designee, (2) the
79 Secretary of the Office of Policy and Management or the secretary's
80 designee, (3) the State Treasurer or the treasurer's designee, (4) one
81 appointed by the speaker of the House of Representatives who is a
82 representative of the Connecticut Conference of Municipalities, (5) one
83 appointed by the president pro tempore of the Senate who is a
84 representative of the Connecticut Conference of Municipalities, (6) one
85 appointed by the majority leader of the House of Representatives who
86 is a representative of the Long Island Assembly, (7) one appointed by
87 the majority leader of the Senate who is a representative of the Long
88 Island Assembly, (8) one appointed by the minority leader of the
89 House of Representatives who is a representative of the Connecticut
90 Water Pollution Abatement Association, (9) one appointed by the
91 minority leader of the Senate who is a representative of the
92 Connecticut Water Pollution Abatement Association, and (10) one
93 appointed by the Governor who is a representative of the Council of
94 Small Towns. All appointments shall be made not later than August 1,
95 2000.

96 (b) The Commissioner of Environmental Protection or the
97 commissioner's designee shall serve as chairperson of the board for the
98 first meeting and shall schedule the first meeting of such board no later
99 than September 1, 2000. A majority of the members shall constitute a
100 quorum for the transaction of business. The principal office of such
101 board shall be the office of the Commissioner of Environmental
102 Protection. At its first meeting, the board shall determine by lot which
103 members shall serve for one, two or three years, provided the terms of
104 office of not more than fifty per cent of the board shall expire in any
105 one year. Thereafter, each term of office shall be for three years. The
106 board shall choose a chairperson and secretary by ballot from its
107 membership.

108 (c) During the first two years of its existence, the board shall be
109 advised on its structure by a group consisting of the executive director
110 of the Connecticut Conference of Municipalities or the director's

111 designee, a member of the Connecticut Conference of Municipalities
112 who shall be appointed by said organization, the executive director of
113 the Council of Small Towns or the director's designee, a member of the
114 Council of Small Towns who shall be appointed by the council, the
115 executive director of the Council on Environmental Quality or the
116 director's designee and the Commissioner of Agriculture or the
117 commissioner's designee.

118 (d) Not later than September thirtieth, annually, the board shall
119 submit to the joint standing committee of the General Assembly
120 having cognizance of matters relating to the environment its findings
121 that address the following:

122 (1) A summary of the nitrogen credit trading program's progress in
123 achieving the total maximum daily load;

124 (2) The adequacy of Clean Water Fund financing pursuant to section
125 22a-477 of the general statutes, as amended by this act, to support the
126 nitrogen credit trading program and the total maximum daily load;

127 (3) Recommendations for changes to the program including, but not
128 limited to: (A) Trading with entities outside the state; (B) expanding
129 the general permit for nitrogen discharges and the nitrogen credit
130 trading program to include additional point and nonpoint sources; and
131 (C) trading transactions executed outside of the nitrogen credit trading
132 program; and

133 (4) Identification of any other issues that need to be resolved.

134 Sec. 4. (NEW) (a) The Commissioner of Environmental Protection
135 after consultation with the Nitrogen Credit Management Board shall
136 establish a nitrogen credit trading program to assist in the
137 implementation of the total maximum daily load. The nitrogen credit
138 trading program shall apply to all publicly owned treatment works.

139 (b) The commissioner, after consultation with the Nitrogen Credit
140 Advisory Board, shall:

- 141 (1) Establish a schedule and monitor all nitrogen removal
142 construction projects;
- 143 (2) Establish an equivalency factor for each publicly owned
144 treatment works, which may be revised at the commissioner's
145 discretion consistent with the total maximum daily load. The
146 equivalency factor and any proposed revisions shall be made available
147 for public comment at least thirty days prior to being implemented in
148 the nitrogen credit trading program;
- 149 (3) Establish the individual waste load allocation for each publicly
150 owned treatment works utilizing the equivalency factors and taking
151 into consideration the schedule for nitrogen removal construction
152 projects;
- 153 (4) Monitor annual progress in meeting the fifteen-year
154 implementation schedule in the total maximum daily load;
- 155 (5) Propose modifications, as may be necessary, to the general
156 permit for nitrogen discharges;
- 157 (6) Establish the annual value of equivalent nitrogen reduction
158 credits giving consideration to the most recently constructed projects
159 and their capital and operating costs;
- 160 (7) Oversee and execute all equivalent nitrogen reduction credit
161 trades;
- 162 (8) Maintain a separate account of state-owned equivalent nitrogen
163 reduction credits;
- 164 (9) Purchase all equivalent nitrogen reduction credits created by
165 publicly owned treatment works at the annually established value;
- 166 (10) Sell available state-owned equivalent nitrogen reduction credits
167 including nitrogen reduction credits purchased from publicly owned
168 treatment works at the annually established value to enable publicly
169 owned treatment works to meet nitrogen limits specified in the general

170 permit for nitrogen discharges;

171 (11) Whenever practicable, sell remaining state-owned equivalent
172 nitrogen reduction credits to any other public or private entity;

173 (12) Establish an annual uniform transaction fee not to exceed five
174 per cent for each equivalent nitrogen reduction credit transaction;

175 (13) Establish accounts of funds created from the purchase and sale
176 of equivalent nitrogen reduction credits and the collection of
177 transaction fees to be used for administration of the nitrogen credit
178 trading program and which may be used for nitrogen removal
179 projects, habitat restoration projects and research; and

180 (14) Establish any other policies or procedures the commissioner,
181 after consultation with the board, may deem necessary to carry out the
182 nitrogen credit trading program.

183 (c) (1) Not later than March thirty-first, annually, the commissioner,
184 after consultation with the Nitrogen Credit Management Board, shall
185 audit the performance of each publicly owned treatment works
186 operating from January first to December thirty-first of the preceding
187 year and shall (A) determine the number of equivalent nitrogen
188 reduction credits for sale and the number of equivalent nitrogen
189 reduction credits to be purchased, (B) determine and publish the
190 annual value of equivalent nitrogen reduction credits, and (C) notify
191 each publicly owned treatment works of their equivalent nitrogen
192 reduction credit balance.

193 (2) Not later than July thirty-first, annually, each publicly owned
194 treatment works shall purchase equivalent nitrogen reduction credits
195 necessary to meet its individual nitrogen waste load allocation. Such
196 purchase shall be paid by certified bank check or money order made
197 payable to the "Department of Environmental Protection". The check
198 or money order shall state on its face "nitrogen reduction credit
199 purchase".

200 (3) Not later than August fourteenth, annually, the commissioner,
201 after consultation with the Nitrogen Credit Management Board, shall
202 purchase all available equivalent nitrogen reduction credits.

203 (d) The commissioner, in conjunction with the Nitrogen Credit
204 Management Board, shall establish a technical assistance program to
205 educate and assist municipalities in the implementation of the nitrogen
206 credit trading program.

207 Sec. 5. (NEW) (a) The Commissioner of Environmental Protection
208 may audit the annual operating data of publicly owned treatment
209 works participating in the nitrogen credit trading program in order to
210 assess permit compliance. Publicly owned treatment works that do not
211 meet individual nitrogen waste load allocations through treatment or
212 the purchase of credits shall be subject to the enforcement provisions
213 of chapter 446k of the general statutes and to the civil action provisions
214 of 33 USC 1365.

215 (b) The commissioner, after consultation with the Nitrogen Credit
216 Management Board, may adopt regulations, in accordance with
217 chapter 54 of the general statutes, to carry out the provisions of
218 sections 2 to 5, inclusive, of this act.

219 Sec. 6. Subsection (h) of section 22a-477 of the general statutes is
220 repealed and the following is substituted in lieu thereof:

221 (h) Amounts in the water pollution control state account of the
222 Clean Water Fund shall be available: (1) To be invested by the
223 Treasurer of the state to earn interest on moneys in such account; (2)
224 for the commissioner to make grants to municipalities in the amounts
225 and in the manner set forth in a project funding agreement; (3) for the
226 commissioner to make loans to municipalities in amounts and in the
227 manner set forth in a project funding agreement for planning and
228 developing eligible projects prior to construction and permanent
229 financing; (4) for the commissioner to make loans to municipalities, for
230 terms not exceeding twenty years, for an eligible water quality project;
231 (5) for the commissioner to pay the costs of environmental studies and

232 surveys to determine water pollution control needs and priorities and
233 to pay the expenses of the department in administering the program;
234 (6) for the payment of costs for administration and management of the
235 Clean Water Fund; (7) provided such amounts are not required for the
236 purposes of such fund, for the Treasurer of the state to pay debt service
237 on bonds of the state issued to fund the Clean Water Fund, or for the
238 purchase or redemption of such bonds; (8) for the commissioner to
239 make grants to municipalities for the development and installation of
240 structural improvements to secondary clarifier operations including,
241 but not limited to, flow distribution mechanisms, baffle-type devices,
242 feed well design and sludge withdrawal mechanisms. Grants under
243 this subdivision shall be for one hundred per cent of the construction
244 cost and not more than three million dollars from the fund shall be
245 used for such grants; [and] (9) for the commissioner to pay the costs for
246 the establishment, administration and management of the nitrogen
247 credit trading program described in section 4 of this act, including, but
248 not limited to, the purchase of equivalent nitrogen reduction credits
249 from publicly owned treatment works in the event that the account of
250 state funds established pursuant to said section 4 is exhausted; and (10)
251 for any other purpose of the Clean Water Fund and the program
252 relating thereto.

253 Sec. 7. This act shall take effect July 1, 2000."