



General Assembly

February Session, 2000

Raised Bill No. 36

LCO No. 601

Referred to Committee on Environment

Introduced by:
(ENV)

An Act Concerning Nitrogen Reduction Permitting And Trading.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) As used in sections 2 to 5, inclusive, of this act:

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

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

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

12 (4) "Individual waste load allocation" means that portion of the
13 state-wide waste load allocation apportioned to an individual publicly
14 owned treatment works;

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

17 (6) "Nitrogen Credit Advisory Board" means the board appointed
18 by the Commissioner of Environmental Protection pursuant to section
19 3 of this act;

20 (7) "Nitrogen credit trading program" means the program within the
21 Department of Environmental Protection established pursuant to
22 section 4 of this act;

23 (8) "Nitrogen reduction credit" means the difference between the
24 annual total nitrogen load specified for a publicly owned treatment
25 works in the general permit for nitrogen discharges and the annual
26 total nitrogen load discharged by that publicly owned treatment works
27 expressed as pounds of nitrogen per day;

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

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

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

38 (12) "State-wide waste load allocation" means the maximum
39 allowable nitrogen load from publicly owned treatment works into
40 Long Island Sound that will meet water quality standards as specified
41 in the total maximum daily load;

42 (13) "Total maximum daily load" means the total maximum daily
43 load analysis to achieve water quality standards for dissolved oxygen

44 in Long Island Sound as established by the Department of
45 Environmental Protection and as approved by the United States
46 Environmental Protection Agency; and

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

49 Sec. 2. (NEW) Notwithstanding any provision of section 22a-430 or
50 22a-430b of the general statutes and notwithstanding nitrogen limits
51 specified in individual discharge permits issued pursuant to said
52 section 22a-430, the Commissioner of Environmental Protection shall
53 issue a general permit specifying effluent limits for nitrogen in
54 accordance with the total maximum daily load. In order to meet water
55 quality standards, the commissioner may incorporate compliance
56 schedules into permits issued under this section and said sections 22a-
57 430 and 22a-430b. The general permit shall establish effluent limits for
58 nitrogen and shall establish an annual compliance schedule for
59 nitrogen reduction for each publicly owned treatment works. Under
60 the general permit, the commissioner may require publicly owned
61 treatment works to (1) meet effluent limits and other conditions for
62 discharging nitrogen to the waters of the state pursuant to their
63 individual waste load allocations, (2) comply with monitoring
64 requirements as set forth in the general permit, and (3) comply with
65 any other requirements as determined by the commissioner necessary
66 to carry out the provisions of this section. Publicly owned treatment
67 works may participate in the nitrogen credit trading program in order
68 to comply with effluent limits for nitrogen specified in the general
69 permit.

70 Sec. 3. (NEW) (a) The Commissioner of Environmental Protection
71 shall establish a Nitrogen Credit Advisory Board to assist and advise
72 the commissioner in administering the nitrogen credit trading
73 program. The board shall consist of the Commissioner of
74 Environmental Protection or the commissioner's designee, the
75 Secretary of the Office of Policy and Management or the secretary's

76 designee, the State Treasurer or the treasurer's designee and five public
77 members to be appointed by the Commissioner of Environmental
78 Protection. The five public members shall include an official of a major
79 publicly owned treatment works, a municipal public works official and
80 three persons having experience in either wastewater treatment,
81 environmental law or finance. The Commissioner of Environmental
82 Protection shall make all such appointments not later than August 1,
83 2000.

84 (b) The Commissioner of Environmental Protection or the
85 commissioner's designee shall serve as chairperson of the board and
86 shall schedule the first meeting of such board no later than September
87 1, 2000. A majority of the members shall constitute a quorum for the
88 transaction of business. The principal office of such board shall be the
89 office of the Commissioner of Environmental Protection. At its first
90 meeting, the board shall determine by lot which members shall serve
91 for one, two or three years, provided the terms of office of not more
92 than fifty per cent of the board shall expire in any one year. Thereafter,
93 each term of office shall be for three years. The board shall choose a
94 secretary by ballot from its membership.

95 (c) Not later than September thirtieth, annually, the board shall
96 submit to the joint standing committee of the General Assembly
97 having cognizance of matters relating to the environment its findings
98 that address the following:

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

101 (2) The adequacy of Clean Water Fund financing pursuant to section
102 22a-477 of the general statutes, as amended by this act, to support the
103 nitrogen credit trading program and the total maximum daily load;

104 (3) Recommendations for changes to the program including, but not
105 limited to: (A) Trading with entities outside the state; (B) expanding
106 the general permit for nitrogen discharges and the nitrogen credit

107 trading program to include additional point and nonpoint sources; and
108 (C) trading transactions executed outside of the nitrogen credit trading
109 program; and

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

111 Sec. 4. (NEW) (a) The Commissioner of Environmental Protection
112 shall establish a nitrogen credit trading program to assist in the
113 implementation of the total maximum daily load. The nitrogen credit
114 trading program shall apply to all publicly owned treatment works.

115 (b) The commissioner, in consultation with the Nitrogen Credit
116 Advisory Board, shall:

117 (1) Establish a schedule and monitor all nitrogen removal
118 construction projects;

119 (2) Establish an equivalency factor for each publicly owned
120 treatment works, which may be revised at the commissioner's
121 discretion consistent with the total maximum daily load. The
122 equivalency factor and any proposed revisions shall be made available
123 for public comment at least thirty days prior to being implemented in
124 the nitrogen credit trading program;

125 (3) Establish the individual waste load allocation for each publicly
126 owned treatment works utilizing the equivalency factors and taking
127 into consideration the schedule for nitrogen removal construction
128 projects;

129 (4) Monitor annual progress in meeting the fifteen-year
130 implementation schedule in the total maximum daily load;

131 (5) Propose modifications, as may be necessary, to the general
132 permit for nitrogen discharges;

133 (6) Establish the annual value of equivalent nitrogen reduction
134 credits giving consideration to the most recently constructed projects

135 and their capital and operating costs;

136 (7) Oversee and execute all equivalent nitrogen reduction credit
137 trades;

138 (8) Maintain a separate account of state-owned equivalent nitrogen
139 reduction credits;

140 (9) Purchase all equivalent nitrogen reduction credits created by
141 publicly owned treatment works at the annually established value;

142 (10) Sell available state-owned equivalent nitrogen reduction credits
143 including nitrogen reduction credits purchased from publicly owned
144 treatment works at the annually established value to enable publicly
145 owned treatment works to meet nitrogen limits specified in the general
146 permit for nitrogen discharges;

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

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

151 (13) Establish accounts of funds created from the purchase and sale
152 of equivalent nitrogen reduction credits and the collection of
153 transaction fees to be used for administration of the nitrogen credit
154 trading program and which may be used for nitrogen removal
155 projects, habitat restoration projects and research; and

156 (14) Establish any other policies or procedures the commissioner
157 may deem necessary to carry out the nitrogen credit trading program.

158 (c) (1) Not later than March thirty-first, annually, the commissioner
159 shall audit the performance of each publicly owned treatment works
160 operating from January first to December thirty-first of the preceding
161 year and shall (A) determine the number of equivalent nitrogen
162 reduction credits for sale and the number of equivalent nitrogen

163 reduction credits to be purchased, (B) determine and publish the
164 annual value of equivalent nitrogen reduction credits, and (C) notify
165 each publicly owned treatment works of their equivalent nitrogen
166 reduction credit balance.

167 (2) Not later than July thirty-first, annually, each publicly owned
168 treatment works shall purchase equivalent nitrogen reduction credits
169 necessary to meet its nitrogen limits. Such purchase shall be paid by
170 certified bank check or money order made payable to the "Department
171 of Environmental Protection". The check or money order shall state on
172 its face "nitrogen reduction credit purchase".

173 (3) Not later than August fourteenth, annually, the commissioner
174 shall purchase all available equivalent nitrogen reduction credits.

175 Sec. 5. (NEW) The Commissioner of Environmental Protection may
176 audit the annual operating data of publicly owned treatment works
177 participating in the nitrogen credit trading program in order to assess
178 permit compliance. Publicly owned treatment works that do not meet
179 permit limits through treatment or the purchase of credits shall be
180 subject to the enforcement provisions of chapter 446k of the general
181 statutes.

182 Sec. 6. The commissioner may adopt regulations, in accordance with
183 chapter 54 of the general statutes, to carry out the provisions of
184 sections 2 to 5, inclusive, of this act.

185 Sec. 7. Subsection (h) of section 22a-477 of the general statutes is
186 repealed and the following is substituted in lieu thereof:

187 (h) Amounts in the water pollution control state account of the
188 Clean Water Fund shall be available: (1) To be invested by the
189 Treasurer of the state to earn interest on moneys in such account; (2)
190 for the commissioner to make grants to municipalities in the amounts
191 and in the manner set forth in a project funding agreement; (3) for the
192 commissioner to make loans to municipalities in amounts and in the

193 manner set forth in a project funding agreement for planning and
194 developing eligible projects prior to construction and permanent
195 financing; (4) for the commissioner to make loans to municipalities, for
196 terms not exceeding twenty years, for an eligible water quality project;
197 (5) for the commissioner to pay the costs of environmental studies and
198 surveys to determine water pollution control needs and priorities and
199 to pay the expenses of the department in administering the program;
200 (6) for the payment of costs for administration and management of the
201 Clean Water Fund; (7) provided such amounts are not required for the
202 purposes of such fund, for the Treasurer of the state to pay debt service
203 on bonds of the state issued to fund the Clean Water Fund, or for the
204 purchase or redemption of such bonds; (8) for the commissioner to
205 make grants to municipalities for the development and installation of
206 structural improvements to secondary clarifier operations including,
207 but not limited to, flow distribution mechanisms, baffle-type devices,
208 feed well design and sludge withdrawal mechanisms. Grants under
209 this subdivision shall be for one hundred per cent of the construction
210 cost and not more than three million dollars from the fund shall be
211 used for such grants; [and] (9) for the commissioner to pay the costs for
212 the establishment, administration and management of the nitrogen
213 credit trading program described in section 4 of this act, including, but
214 not limited to, the purchase of equivalent nitrogen reduction credits
215 from publicly owned treatment works in the event that the account of
216 state funds established pursuant to said section 4 is exhausted; and (10)
217 for any other purpose of the Clean Water Fund and the program
218 relating thereto.

219 Sec. 8. This act shall take effect July 1, 2000.

Statement of Purpose:

To implement a plan developed by the Department of Environmental Protection that provides for a general permit specifying effluent limits for nitrogen in discharges to state waters and provides for a nitrogen credit trading program.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]