



***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 nitrogen waste load allocation" means that portion of  
13 the state-wide waste load allocation apportioned to an individual  
14 publicly owned treatment works and shall be construed as an effluent  
15 standard or limitation for purposes of 33 USC 1365;
- 16 (5) "Nitrogen" means the total of ammonia nitrogen, organic  
17 nitrogen, nitrite nitrogen and nitrate nitrogen;

18 (6) "Nitrogen Credit Management Board" means the board  
19 established pursuant to section 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 when the actual discharge is less than the allocated load for that  
28 period, expressed as pounds of nitrogen per day;

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

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

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

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

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

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

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

71 Sec. 3. (NEW) (a) There is established a Nitrogen Credit  
72 Management Board to assist and advise the commissioner in  
73 administering the nitrogen credit trading program. The board shall  
74 consist of the following members: (1) The Commissioner of  
75 Environmental Protection or the commissioner's designee; (2) the  
76 Secretary of the Office of Policy and Management or the secretary's  
77 designee; (3) the State Treasurer or the treasurer's designee; (4) one  
78 appointed by the speaker of the House of Representatives who is a  
79 representative of the Connecticut Conference of Municipalities, (5) one  
80 appointed by the president pro tempore of the Senate who is a  
81 representative of the Connecticut Conference of Municipalities, (6) one

82 appointed by the majority leader of the House of Representatives who  
83 is a representative of the Long Island Assembly, (7) one appointed by  
84 the majority leader of the Senate who is a representative of the Long  
85 Island Assembly, (8) one appointed by the minority leader of the  
86 House of Representatives who is a representative of the Connecticut  
87 Water Pollution Abatement Association, (9) one appointed by the  
88 minority leader of the Senate who is a representative of the  
89 Connecticut Water Pollution Abatement Association, and (10) one  
90 appointed by the Governor who is a representative of the Council of  
91 Small Towns. All appointments shall be made not later than August 1,  
92 2000.

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

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

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

111 (2) The adequacy of Clean Water Fund financing pursuant to section  
112 22a-477 of the general statutes, as amended by this act, to support the  
113 nitrogen credit trading program and the total maximum daily load;

114 (3) Recommendations for changes to the program including, but not  
115 limited to: (A) Trading with entities outside the state; (B) expanding  
116 the general permit for nitrogen discharges and the nitrogen credit  
117 trading program to include additional point and nonpoint sources; and  
118 (C) trading transactions executed outside of the nitrogen credit trading  
119 program; and

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

121 Sec. 4. (NEW) (a) The Commissioner of Environmental Protection  
122 with the approval of the Nitrogen Credit Management Board shall  
123 establish a nitrogen credit trading program to assist in the  
124 implementation of the total maximum daily load. The nitrogen credit  
125 trading program shall apply to all publicly owned treatment works.

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

128 (1) Establish a schedule and monitor all nitrogen removal  
129 construction projects;

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

136 (3) Establish the individual waste load allocation for each publicly  
137 owned treatment works utilizing the equivalency factors and taking  
138 into consideration the schedule for nitrogen removal construction  
139 projects;

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

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

144 (6) Establish the annual value of equivalent nitrogen reduction  
145 credits giving consideration to the most recently constructed projects  
146 and their capital and operating costs;

147 (7) Oversee and execute all equivalent nitrogen reduction credit  
148 trades;

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

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

153 (10) Sell available state-owned equivalent nitrogen reduction credits  
154 including nitrogen reduction credits purchased from publicly owned  
155 treatment works at the annually established value to enable publicly  
156 owned treatment works to meet nitrogen limits specified in the general  
157 permit for nitrogen discharges;

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

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

162 (13) Establish accounts of funds created from the purchase and sale  
163 of equivalent nitrogen reduction credits and the collection of  
164 transaction fees to be used for administration of the nitrogen credit  
165 trading program and which may be used for nitrogen removal  
166 projects, habitat restoration projects and research; and

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

170 (c) (1) Not later than March thirty-first, annually, the commissioner,  
171 after consultation with the Nitrogen Credit Management Board, shall  
172 audit the performance of each publicly owned treatment works

173 operating from January first to December thirty-first of the preceding  
174 year and shall (A) determine the number of equivalent nitrogen  
175 reduction credits for sale and the number of equivalent nitrogen  
176 reduction credits to be purchased, (B) determine and publish the  
177 annual value of equivalent nitrogen reduction credits, and (C) notify  
178 each publicly owned treatment works of their equivalent nitrogen  
179 reduction credit balance.

180 (2) Not later than July thirty-first, annually, each publicly owned  
181 treatment works shall purchase equivalent nitrogen reduction credits  
182 necessary to meet its individual nitrogen waste load allocation. Such  
183 purchase shall be paid by certified bank check or money order made  
184 payable to the "Department of Environmental Protection". The check  
185 or money order shall state on its face "nitrogen reduction credit  
186 purchase".

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

190 Sec. 5. (NEW) The Commissioner of Environmental Protection may  
191 audit the annual operating data of publicly owned treatment works  
192 participating in the nitrogen credit trading program in order to assess  
193 permit compliance. Publicly owned treatment works that do not meet  
194 individual nitrogen waste load allocations through treatment or the  
195 purchase of credits shall be subject to the enforcement provisions of  
196 chapter 446k of the general statutes and to the civil action provisions of  
197 33 USC 1365.

198 Sec. 6. The commissioner, after consultation with the Nitrogen  
199 Credit Management Board, may adopt regulations, in accordance with  
200 chapter 54 of the general statutes, to carry out the provisions of  
201 sections 2 to 5, inclusive, of this act.

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

204 (h) Amounts in the water pollution control state account of the  
205 Clean Water Fund shall be available: (1) To be invested by the  
206 Treasurer of the state to earn interest on moneys in such account; (2)  
207 for the commissioner to make grants to municipalities in the amounts  
208 and in the manner set forth in a project funding agreement; (3) for the  
209 commissioner to make loans to municipalities in amounts and in the  
210 manner set forth in a project funding agreement for planning and  
211 developing eligible projects prior to construction and permanent  
212 financing; (4) for the commissioner to make loans to municipalities, for  
213 terms not exceeding twenty years, for an eligible water quality project;  
214 (5) for the commissioner to pay the costs of environmental studies and  
215 surveys to determine water pollution control needs and priorities and  
216 to pay the expenses of the department in administering the program;  
217 (6) for the payment of costs for administration and management of the  
218 Clean Water Fund; (7) provided such amounts are not required for the  
219 purposes of such fund, for the Treasurer of the state to pay debt service  
220 on bonds of the state issued to fund the Clean Water Fund, or for the  
221 purchase or redemption of such bonds; (8) for the commissioner to  
222 make grants to municipalities for the development and installation of  
223 structural improvements to secondary clarifier operations including,  
224 but not limited to, flow distribution mechanisms, baffle-type devices,  
225 feed well design and sludge withdrawal mechanisms. Grants under  
226 this subdivision shall be for one hundred per cent of the construction  
227 cost and not more than three million dollars from the fund shall be  
228 used for such grants; [and] (9) for the commissioner to pay the costs for  
229 the establishment, administration and management of the nitrogen  
230 credit trading program described in section 4 of this act, including, but  
231 not limited to, the purchase of equivalent nitrogen reduction credits  
232 from publicly owned treatment works in the event that the account of  
233 state funds established pursuant to said section 4 is exhausted; and (10)  
234 for any other purpose of the Clean Water Fund and the program  
235 relating thereto.

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

**ENV Committee Vote:** Yea 24 Nay 0 JFS C/R FIN