

## DEPs Nutrient Credit Trading Program Upheld

PUBLISHED ON  
**May 29, 2020**

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A cost-effective method of helping businesses meet federal environmental standards for discharge into the Chesapeake Bay's watershed can continue, according to a recent ruling from the Pennsylvania Environmental Hearing Board.

The board has upheld the Pennsylvania Department of Environmental Protection's nutrient trading program. Under the program, businesses which reduce their nutrient discharge into the watershed - which includes most waterways in central Pennsylvania - more than the federal requirements accrue credits for additional levels of reduction.

Businesses that have those credits can then sell them to other businesses who have not met the federal requirement for discharge. Trading basically constitutes the buying and selling of pollution reduction credits.

Under the right circumstances, the trading program provides a flexible, cost-effective approach for parties who otherwise have difficulties meeting nutrient reduction requirements. This is particularly true when permittees would otherwise have to rely on exorbitantly expensive technology to meet permit requirements.

The board rejected a challenge to the nutrient trading program by the environmental group Food and Water Watch, which claimed that the program was not permitted under the federal Clean Water Act. Unless the board's action is reversed on appeal, permittees can still use credits to meet their nitrogen, phosphorus and sediment nutrient reduction requirements in their National Pollutant Discharge Elimination System (NPDES) permits.

Credits may be generated only from a pollutant reduction activity that is certified, verified and registered by the DEP. Trading allows a permittee to meet its Chesapeake Bay-related limits by using another source's excess nutrient reductions.

Permittees interested in buying credits to meet permit requirements or parties interested in generating and selling nutrient credits should [contact me](#) or any of the attorneys in the [Barley Snyder Environment & Energy Practice Group](#).

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