

105TH CONGRESS
2D SESSION

S. 2610

To amend the Clean Air Act to repeal the grandfather status for electric utility units.

IN THE SENATE OF THE UNITED STATES

OCTOBER 9 (legislative day, OCTOBER 2), 1998

Mr. LIEBERMAN (for himself, Mr. DODD, Mr. KERRY, Mr. LAUTENBERG, and Mr. TORRICELLI) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to repeal the grandfather status for electric utility units.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. STANDARDS OF PERFORMANCE FOR ELECTRIC**
4 **UTILITY UNITS.**

5 (a) FINDINGS.—Congress finds that—

6 (1) older electric utility units are exempt from
7 strict emission control requirements applicable to
8 newer facilities, allowing some older units to emit
9 greater quantities of dangerous pollutants;

1 (2) this disparity in regulatory treatment is of
 2 particular concern in the new era of electric utility
 3 restructuring, which was never envisioned at the
 4 time of enactment of the Clean Air Act (42 U.S.C.
 5 7401 et seq.) or amendments to that Act;

6 (3) in an era of electric utility restructuring,
 7 utilities that spend less money on environmental
 8 controls will be able to increase their generation of
 9 power and emissions of dangerous pollutants;

10 (4) this situation results in an unfair competi-
 11 tive disadvantage for utilities that generate elec-
 12 tricity while meeting strict environmental standards;
 13 and

14 (5) electricity restructuring can result in enor-
 15 mous benefits for consumers and the environment if
 16 done right.

17 (b) STANDARDS.—Section 111 of the Clean Air Act
 18 (42 U.S.C. 7411) is amended by adding at the end the
 19 following:

20 “(k) STANDARDS OF PERFORMANCE FOR ELECTRIC
 21 GENERATING UNITS.—

22 “(1) DEFINITION OF GRANDFATHERED UNIT.—
 23 In this subsection, the term ‘grandfathered unit’
 24 means a fossil fuel-fired electric utility unit that, be-
 25 fore the date of enactment of this subsection, was

1 not subject to the standards of performance set
 2 forth in subpart D of part 60 of title 40, Code of
 3 Federal Regulations, or to any subsequently adopted
 4 standard of performance under this section applica-
 5 ble to fossil fuel-fired electric utility units.

6 “(2) APPLICABILITY.—Notwithstanding any
 7 other provision of law, in the case of a fossil fuel-
 8 fired electric utility unit, a standard of performance
 9 under this section that applies to new or modified
 10 electric utility units shall also apply to a grand-
 11 fathered unit that—

12 “(A) has the capacity to generate more
 13 than 25 megawatts of electrical output per
 14 hour; and

15 “(B) generates electricity that flows
 16 through transmission or connected facilities
 17 that cross State lines (including electricity in a
 18 transaction that for regulatory purposes is
 19 treated as an intrastate rather than an inter-
 20 state transaction).

21 “(3) DEADLINES FOR COMPLIANCE.—Each
 22 grandfathered unit shall comply with—

23 “(A) a standard of performance estab-
 24 lished under this section before the date of en-
 25 actment of this subsection, not later than 5

1 years after the date of enactment of this sub-
2 section; and

3 “(B) a standard of performance estab-
4 lished under this section on or after the date of
5 enactment of this subsection, not later than 3
6 years after the date of establishment of the
7 standard.

8 “(4) ALTERNATIVE COMPLIANCE.—

9 “(A) IN GENERAL.—To provide an alter-
10 native means of complying with standards of
11 performance made applicable by this subsection,
12 the Administrator shall—

13 “(i) establish national annual limita-
14 tions for calendar year 2003 and each cal-
15 endar year thereafter for each pollutant
16 subject to the standards at a level that is
17 equal to the aggregate emissions of each
18 pollutant that would result from applica-
19 tion of the standards to all electric utility
20 units subject to this section;

21 “(ii) allocate transferable allowances
22 for pollutants subject to the standards to
23 electric utility units subject to this section
24 in an annual quantity not to exceed the
25 limitations established under clause (i)

1 based on each unit's share of the total
2 electric generation from such units in each
3 calendar year; and

4 “(iii) require grandfathered units to
5 meet the standards by emitting in any cal-
6 ender year no more of each pollutant regu-
7 lated under this section than the quantity
8 of allowances that the unit holds for the
9 pollutant for the calendar year.

10 “(B) CALCULATION OF LIMITATIONS.—In
11 calculating the limitations under subparagraph
12 (A)(i), the Administrator shall apply the stand-
13 ard for the applicable fuel type in effect in cal-
14 endar year 2000.

15 “(5) NO EFFECT ON OBLIGATION TO COMPLY
16 WITH OTHER PROVISIONS.—Nothing in this sub-
17 section affects the obligation of an owner or operator
18 of a source to comply with—

19 “(A) any standard of performance under
20 this section that applies to the source under any
21 provision of this section other than this sub-
22 section; or

23 “(B) any other provision of this Act (in-
24 cluding provisions relating to National Ambient

- 1 Air Quality Standards and State Implementa-
- 2 tion Plans).”.

