

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;

10 (4) this situation results in an unfair competitive  
11 disadvantage for utilities that generate electricity while meeting strict environmental standards;  
12 and

14 (5) electricity restructuring can result in enormous benefits for consumers and the environment if  
15  
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                   endar 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).”.

