
By: **Senators Pinsky, Britt, Brochin, Conway, Della, Dyson, Exum,
Forehand, Frosh, Gladden, Green, Grosfeld, Hollinger, Hughes, Kelley,
Lawlah, Ruben, Stone, and Teitelbaum**

Introduced and read first time: February 4, 2005

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Air Quality - Emissions of Four Pollutants from Power**
3 **Plants**

4 FOR the purpose of establishing certain limits on the emissions of oxides of nitrogen,
5 sulfur dioxide, mercury, and carbon dioxide from certain facilities; allowing
6 certain offsets for certain emissions requirements under certain circumstances;
7 providing that this Act is not construed to affect certain provisions of law;
8 authorizing certain facilities to determine the best method of compliance with
9 certain requirements of this Act; requiring certain facilities to submit, to the
10 Department of the Environment, the Department of Natural Resources, and the
11 Public Service Commission, a certain compliance report by a certain date;
12 requiring the Department to review certain information received in accordance
13 with this Act; requiring the Department to make certain determinations public;
14 requiring the Department to adopt certain regulations; providing for criminal
15 and civil penalties for a violation of this Act; establishing a Clean Air Fund in
16 the Department of the Environment; providing for the operation and
17 maintenance of the Fund; requiring certain penalties to be deposited in the
18 Fund; defining certain terms; requiring the Power Plant Research Program
19 within the Department of Natural Resources to provide a certain report to the
20 General Assembly on or before a certain date; and generally relating to the
21 emissions of four pollutants from power plants.

22 BY adding to

23 Article - Environment

24 Section 2-1001 through 2-1005, inclusive, to be under the new subtitle "Subtitle
25 10. Emissions of Four Pollutants From Power Plants"

26 Annotated Code of Maryland

27 (1996 Replacement Volume and 2004 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

29 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Environment**

2 SUBTITLE 10. EMISSIONS OF FOUR POLLUTANTS FROM POWER PLANTS.

3 2-1001.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.6 (B) (1) "AFFECTED FACILITY" MEANS A FACILITY IN MARYLAND THAT
7 INCLUDES A FOSSIL FUEL-FIRED BOILER OR INDIRECT HEAT EXCHANGER THAT WAS
8 EXEMPTED FROM THE PREVENTION OF SIGNIFICANT DETERIORATION REVIEW
9 UNDER TITLE 1 OF THE 1977 FEDERAL CLEAN AIR ACT.

10 (2) "AFFECTED FACILITY" INCLUDES:

11 (I) H.A. WAGNER, UNITS 2 AND 3;

12 (II) R.P. SMITH, UNITS 3 AND 4;

13 (III) MORGANTOWN GENERATING STATION, UNITS 1 AND 2;

14 (IV) DICKERSON, UNITS 1, 2, AND 3;

15 (V) C.P. CRANE, UNITS 1 AND 2;

16 (VI) CHALK POINT GENERATING STATION, UNITS 1 AND 2; AND

17 (VII) BRANDON SHORES, UNITS 1 AND 2.

18 (C) "BASELINE EMISSIONS" MEANS THE ANNUAL AVERAGE EMISSIONS OF
19 CARBON DIOXIDE OR MERCURY FROM JANUARY 1, 2002 THROUGH DECEMBER 31,
20 2004.21 (D) "BOILER" MEANS AN ENCLOSED FOSSIL FUEL OR OTHER FUEL-FIRED
22 COMBUSTION DEVICE USED TO PRODUCE HEAT AND TO TRANSFER HEAT TO
23 RECIRCULATING WATER, STEAM, OR OTHER MEDIUM.24 (E) "B.T.U." MEANS A BRITISH THERMAL UNIT WHICH IS THE QUANTITY OF
25 HEAT REQUIRED TO RAISE THE TEMPERATURE OF 1 POUND OF WATER 1 DEGREE
26 FAHRENHEIT.27 (F) "PJM REGION" HAS THE MEANING STATED UNDER § 7-701 OF THE PUBLIC
28 UTILITY COMPANIES ARTICLE.

29 2-1002.

30 (A) BEGINNING ON JANUARY 1, 2011, A PERSON THAT OWNS, LEASES,
31 OPERATES, OR CONTROLS AN AFFECTED FACILITY SHALL:

1 (1) ALLOW THE EMISSION OF NO MORE THAN 0.15 POUNDS PER MILLION
2 B.T.U. OF OXIDES OF NITROGEN, AS CALCULATED ON A ROLLING 30-DAY AVERAGE;

3 (2) ALLOW THE EMISSION OF NO MORE THAN 0.25 POUNDS PER MILLION
4 B.T.U. OF SULPHUR DIOXIDE, AS CALCULATED ON A ROLLING 30-DAY AVERAGE;

5 (3) FOR EACH CALENDAR YEAR, REDUCE MERCURY EMISSIONS BY AT
6 LEAST 90 PERCENT OF THE BASELINE EMISSIONS FOR MERCURY FROM THAT
7 FACILITY; AND

8 (4) FOR EACH CALENDAR YEAR, ALLOW THE EMISSION OF NO MORE
9 CARBON DIOXIDE THAN TEN PERCENT LESS THAN THE BASELINE EMISSIONS FOR
10 CARBON DIOXIDE FROM THAT FACILITY.

11 (B) BEGINNING ON JANUARY 1, 2021, A PERSON WHO OWNS, LEASES,
12 OPERATES OR CONTROLS ONE OR MORE AFFECTED FACILITIES MAY NOT
13 COLLECTIVELY EMIT MORE CARBON DIOXIDE AT EACH OF ITS AFFECTED FACILITIES
14 THAN 25 PERCENT LESS THAN THE BASELINE EMISSIONS FOR CARBON DIOXIDE OF
15 EACH OF THOSE FACILITIES.

16 (C) EMISSIONS OF CARBON DIOXIDE IN EXCESS OF THOSE CALCULATED
17 UNDER SUBSECTIONS (A)(4) AND (B) OF THIS SECTION MAY BE OFFSET BY:

18 (1) REDUCTIONS AT ANOTHER AFFECTED FACILITY IF:

19 (I) THOSE REDUCTIONS ARE NOT CLAIMED BY THE FACILITY AT
20 WHICH THE REDUCTIONS OCCUR FOR THE PURPOSE OF COMPLIANCE WITH THIS
21 SUBTITLE OR ANY OTHER LEGAL REQUIREMENT;

22 (II) CREDITS FROM THE REDUCTIONS HAVE NOT BEEN SOLD OR
23 MADE AVAILABLE FOR SALE TO ANY OTHER PARTY;

24 (III) THE AFFECTED FACILITY WITH EXCESS EMISSIONS DID NOT
25 EXCEED AN EMISSION RATE OF 1800 POUNDS PER MEGAWATT HOUR IN THE
26 PREVIOUS CALENDAR YEAR; AND

27 (IV) THE DEPARTMENT DETERMINES THAT THOSE REDUCTIONS:

28 1. WILL RESULT IN THE REDUCTION OF ACTUAL EMISSIONS
29 RELEASED INTO THE AIR;

30 2. WILL RESULT IN AN EMISSION REDUCTION THAT IS
31 BEYOND THE BASELINE EMISSIONS OF AN AFFECTED FACILITY AND IS NOT:

32 A. REQUIRED UNDER THE STATE IMPLEMENTATION PLAN;

33 B. RELIED UPON IN ANY APPLICABLE ATTAINMENT
34 DEMONSTRATION; OR

35 C. ATTRIBUTABLE TO A GENERATING UNIT BEING TAKEN
36 OFFLINE IN ACCORDANCE WITH A BANKRUPTCY JUDGMENT;

1 3. THROUGH A REPLICABLE METHOD THAT IS ACCEPTABLE
2 TO THE DEPARTMENT, CAN BE QUANTIFIED IN TERMS OF THE AMOUNT, RATE, AND
3 CHARACTERISTICS OF THE EMISSION REDUCTION;

4 4. WILL RESULT IN AN EMISSION REDUCTION THAT IS
5 ASSURED FOR THE LIFE OF THE CORRESPONDING EMISSION REDUCTION CREDIT
6 THROUGH AN ENFORCEABLE MECHANISM; AND

7 5. ARE WITHIN THE AUTHORITY AND ABILITY OF THE
8 DEPARTMENT TO ENFORCE.

9 (2) REDUCTIONS ACHIEVED IN ANY OTHER STATE THAT PARTICIPATES
10 IN THE REGIONAL GREENHOUSE GAS INITIATIVE, OR ANY OTHER MULTISTATE
11 CAP-AND-TRADE PROGRAM TO REDUCE CARBON DIOXIDE EMISSIONS FROM POWER
12 PLANTS IN THOSE STATES IF:

13 (I) THE DEPARTMENT DETERMINES THAT MARYLAND, AND AT
14 LEAST SIX OTHER STATES, INCLUDING AT LEAST ONE OTHER STATE IN THE PJM
15 REGION, HAVE ESTABLISHED A PROGRAM FOR TRADING AND TRACKING CARBON
16 DIOXIDE EMISSION ALLOWANCES THROUGH THE ADOPTION OF SUBSTANTIALLY
17 SIMILAR LAWS AND REGULATIONS REGARDING:

18 1. FACILITIES SUBJECT TO EMISSIONS LIMITATIONS;

19 2. TESTING AND DATA COLLECTION;

20 3. ALLOWANCE TRACKING;

21 4. COMPLIANCE PERIODS;

22 5. CONTINUOUS EMISSIONS MONITORING;

23 6. EMISSION OFFSETS;

24 7. RECORDKEEPING; AND

25 8. REPORTING REQUIREMENTS;

26 (II) THE DEPARTMENT DETERMINES THE REDUCTIONS SATISFY
27 THE CONDITIONS OF PARAGRAPH (1)(IV) OF THIS SUBSECTION; AND

28 (III) THE AFFECTED FACILITY WITH EXCESS EMISSIONS DID NOT
29 EXCEED AN EMISSION RATE OF 1800 POUNDS PER MEGAWATT HOUR IN THE
30 PREVIOUS CALENDAR YEAR.

31 (D) (1) THE EMISSION RATE UNDER SUBSECTION (C)(1)(III) SHALL BE
32 CALCULATED BY CALENDAR YEAR BY DIVIDING THE TOTAL NUMBER OF POUNDS OF
33 CARBON DIOXIDE EMITTED BY THE AFFECTED FACILITY IN THAT YEAR BY THE NET
34 ELECTRICAL OUTPUT FOR THE AFFECTED FACILITY FOR THE SAME YEAR.

1 (2) THE PROVISIONS OF SUBSECTION (C)(2)(I) OF THIS SECTION SHALL
2 BE CONSTRUED TO ALLOW FOR STATE-SPECIFIC VARIATIONS THAT DO NOT IMPEDE
3 CAP-AND-TRADE ACTIVITIES WITHIN THE PARTICIPATING STATES.

4 (E) THE PROVISIONS OF THIS SECTION MAY NOT BE CONSTRUED TO AFFECT
5 EMISSIONS REQUIREMENTS, STANDARDS, OR LIMITATIONS IMPOSED ON
6 ELECTRICITY GENERATORS BY ANY OTHER PROVISION OF LAW THAT WOULD
7 RESULT IN EMISSIONS REDUCTIONS IN ADDITION TO THOSE REQUIRED UNDER THIS
8 SECTION.

9 (F) A PERSON THAT OWNS, LEASES, OPERATES, OR CONTROLS AN AFFECTED
10 FACILITY THAT IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION MAY
11 DETERMINE HOW BEST TO ACHIEVE THE COLLECTIVE EMISSIONS REQUIREMENTS
12 UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION.

13 2-1003.

14 (A) BEGINNING DECEMBER 1, 2006, AND EACH YEAR THEREAFTER, A PERSON
15 WHO OWNS, LEASES, OPERATES, OR CONTROLS AN AFFECTED FACILITY SHALL
16 SUBMIT TO THE DEPARTMENT, THE DEPARTMENT OF NATURAL RESOURCES, AND
17 THE PUBLIC SERVICE COMMISSION A REPORT THAT INCLUDES:

18 (1) EMISSIONS PERFORMANCE RESULTS RELATED TO COMPLIANCE
19 WITH THE EMISSIONS REQUIREMENTS UNDER § 2-1002 OF THIS SUBTITLE;

20 (2) THE NUMBER OF POUNDS OF OXIDES OF NITROGEN, SULFUR
21 DIOXIDE, MERCURY, AND CARBON DIOXIDE EMITTED DURING THE PREVIOUS
22 CALENDAR YEAR FROM THE AFFECTED FACILITY;

23 (3) A CURRENT COMPLIANCE PLAN; AND

24 (4) ANY OTHER INFORMATION REQUESTED BY THE DEPARTMENT.

25 (B) THE DEPARTMENT SHALL REVIEW THE INFORMATION SUBMITTED UNDER
26 THIS SECTION TO DETERMINE WHETHER THE ACTUAL AND PROPOSED
27 MODIFICATIONS AND PERMIT AND CONSTRUCTION SCHEDULES ARE ADEQUATE TO
28 ACHIEVE THE EMISSIONS REQUIREMENTS UNDER THIS SUBTITLE AND SHALL MAKE
29 THESE DETERMINATIONS PUBLICLY AVAILABLE ON AN ANNUAL BASIS.

30 2-1004.

31 BY DECEMBER 31, 2005, THE DEPARTMENT SHALL ADOPT REGULATIONS TO
32 IMPLEMENT THE PROVISIONS OF THIS SUBTITLE, INCLUDING:

33 (1) TESTING AND DATA COLLECTION;

34 (2) ALLOWANCE TRACKING;

35 (3) COMPLIANCE PERIODS;

36 (4) CONTINUOUS EMISSIONS MONITORING;

1 (5) EMISSIONS OFFSETS; AND

2 (6) RECORDKEEPING AND REPORTING REQUIREMENTS.

3 2-1005.

4 (A) THE CRIMINAL PENALTY PROVISIONS OF THIS SECTION ARE IN ADDITION
5 TO THE CIVIL PENALTY PROVISIONS PROVIDED UNDER § 2-610 OF THIS TITLE.

6 (B) (1) A PERSON MAY NOT KNOWINGLY ACT OR FAIL TO ACT IN VIOLATION
7 OF THE PROVISIONS OF THIS SUBTITLE OR THE REGULATIONS ADOPTED UNDER
8 THIS SUBTITLE.

9 (2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS
10 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

11 (I) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$25,000 OR
12 IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH; OR

13 (II) FOR A VIOLATION COMMITTED AFTER A FIRST CONVICTION
14 UNDER THIS SECTION, A FINE NOT EXCEEDING \$50,000 OR IMPRISONMENT NOT
15 EXCEEDING 2 YEARS OR BOTH.

16 (3) EACH DAY ON WHICH A VIOLATION OCCURS IS A SEPARATE
17 VIOLATION UNDER THIS SUBSECTION.

18 (C) A CRIMINAL PROSECUTION FOR A VIOLATION BROUGHT UNDER THIS
19 SECTION SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE VIOLATION WAS
20 COMMITTED.

21 (D) (1) THERE IS A CLEAN AIR FUND ADMINISTERED BY THE DEPARTMENT.

22 (2) (I) THE FUND IS A SPECIAL NONLAPSING FUND THAT IS NOT
23 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

24 (II) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND
25 THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

26 (3) THE FUND CONSISTS OF:

27 (I) CRIMINAL PENALTIES IMPOSED UNDER THIS SUBTITLE;

28 (II) CIVIL PENALTIES UNDER § 2-610 OF THIS TITLE FOR ANY
29 VIOLATION OF LAW UNDER THIS SUBTITLE;

30 (III) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;
31 AND

32 (IV) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
33 THE BENEFIT OF THE FUND.

1 (4) THE FUND MAY BE USED ONLY TO OFFSET THE COSTS OF
2 UPGRADING TECHNOLOGY THAT WILL REDUCE AIR POLLUTION IN INDUSTRIES
3 OTHER THAN THE ELECTRICITY GENERATION INDUSTRY.

4 (5) (I) THE TREASURER SHALL INVEST THE PROCEEDS OF THE FUND
5 IN THE SAME MANNER AS OTHER STATE PROCEEDS MAY BE INVESTED.

6 (II) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE
7 CREDITED TO THE FUND.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Power Plant
9 Research Program within the Department of Natural Resources shall report to the
10 General Assembly on or before July 1, 2006, in accordance with § 2-1246 of the State
11 Government Article, on the environmental benefits, economic feasibility, and
12 suggested guidelines or standards for the creation of a trading program that
13 incorporates vegetative sequestration as an effective means of offsetting carbon
14 dioxide emissions from coal-fired power plants. In developing its report, the
15 Department shall consult with the Department of the Environment, members of the
16 electricity generating industry, and members of least one not-for-profit
17 environmental organization within the State.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 July 1, 2005.