

118TH CONGRESS
1ST SESSION

H. R. 165

To amend sections 111, 169, and 171 of the Clean Air Act to clarify when a physical change in, or change in the method of operation of, a stationary source constitutes a modification or construction, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2023

Mr. GRIFFITH introduced the following bill; which was referred to the
Committee on Energy and Commerce

A BILL

To amend sections 111, 169, and 171 of the Clean Air Act to clarify when a physical change in, or change in the method of operation of, a stationary source constitutes a modification or construction, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “New Source Review
5 Permitting Improvement Act”.

1 **SEC. 2. CLARIFICATION OF DEFINITION OF A MODIFICA-**
2 **TION: EMISSION RATE INCREASES, POLLU-**
3 **TION CONTROL, EFFICIENCY, SAFETY, AND**
4 **RELIABILITY PROJECTS.**

5 Paragraph (4) of section 111(a) of the Clean Air Act
6 (42 U.S.C. 7411(a)) is amended—

7 (1) by inserting “(A)” before “The term”;

8 (2) by inserting before the period at the end the
9 following: “. For purposes of the preceding sentence,
10 a change increases the amount of any air pollutant
11 emitted by such source only if the maximum hourly
12 emission rate of an air pollutant that is achievable
13 by such source after the change is higher than the
14 maximum hourly emission rate of such air pollutant
15 that was achievable by such source during any hour
16 in the 10-year period immediately preceding the
17 change”; and

18 (3) by adding at the end the following:

19 “(B) Notwithstanding subparagraph (A), the
20 term ‘modification’ does not include a change at a
21 stationary source that is designed—

22 “(i) to reduce the amount of any air pol-
23 lutant emitted by the source per unit of produc-
24 tion; or

1 “(ii) to restore, maintain, or improve the
2 reliability of operations at, or the safety of, the
3 source,
4 except, with respect to either clause (i) or (ii), when
5 the change would be a modification as defined in
6 subparagraph (A) and the Administrator determines
7 that the increase in the maximum achievable hourly
8 emission rate of a pollutant from such change would
9 cause an adverse effect on human health or the envi-
10 ronment.”.

11 **SEC. 3. CLARIFICATION OF DEFINITION OF CONSTRUCTION**
12 **FOR PREVENTION OF SIGNIFICANT DETERIO-**
13 **RATION.**

14 Subparagraph (C) of section 169(2) of the Clean Air
15 Act (42 U.S.C. 7479(2)) is amended to read as follows:

16 “(C) The term ‘construction’, when used in con-
17 nection with a major emitting facility, includes a
18 modification (as defined in section 111(a)) at such
19 facility, except that for purposes of this subpara-
20 graph a modification does not include a change at
21 a major emitting facility that does not result in a
22 significant emissions increase, or a significant net
23 emissions increase, in annual actual emissions at
24 such facility.”.

1 **SEC. 4. CLARIFICATION OF DEFINITION OF MODIFICA-**
2 **TIONS AND MODIFIED FOR NONATTAINMENT**
3 **AREAS.**

4 Paragraph (4) of section 171 of the Clean Air Act
5 (42 U.S.C. 7501) is amended to read as follows:

6 “(4) The terms ‘modifications’ and ‘modified’
7 mean a modification as defined in section 111(a)(4),
8 except that such terms do not include a change at
9 a major emitting facility that does not result in a
10 significant emissions increase, or a significant net
11 emissions increase, in annual actual emissions at
12 such facility.”.

13 **SEC. 5. RULE OF CONSTRUCTION.**

14 Nothing in this Act or the amendments made by this
15 Act shall be construed to treat any change as a modifica-
16 tion for purposes of any provision of the Clean Air Act
17 (42 U.S.C. 7401 et seq.) if such change would not have
18 been so treated as of the day before the date of enactment
19 of this Act.

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