H. R. 245

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 11, 2021

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”.

SEC. 2. CLARIFICATION OF DEFINITION OF A MODIFICATION: EMISSION RATE INCREASES, POLLUTION CONTROL, EFFICIENCY, SAFETY, AND RELIABILITY PROJECTS.

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

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

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

(3) by adding at the end the following:

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

“(i) to reduce the amount of any air pollutant emitted by the source per unit of production; or
“(ii) to restore, maintain, or improve the reliability of operations at, or the safety of, the source,
except, with respect to either clause (i) or (ii), when the change would be a modification as defined in subparagraph (A) and the Administrator determines that the increase in the maximum achievable hourly emission rate of a pollutant from such change would cause an adverse effect on human health or the environment.”.

SEC. 3. CLARIFICATION OF DEFINITION OF CONSTRUCTION FOR PREVENTION OF SIGNIFICANT DETERIORATION.

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

“(C) The term ‘construction’, when used in connection with a major emitting facility, includes a modification (as defined in section 111(a)) at such facility, except that for purposes of this subparagraph a modification does not include a change at a major emitting facility that does not result in a significant emissions increase, or a significant net emissions increase, in annual actual emissions at such facility.”.
SEC. 4. CLARIFICATION OF DEFINITION OF MODIFICATIONS AND MODIFIED FOR NONATTAINMENT AREAS.

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

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

SEC. 5. RULE OF CONSTRUCTION.

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