

# Union Calendar No. 542

119<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 161

[Report No. 119–625]

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.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2025

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

APRIL 28, 2026

Additional sponsors: Mrs. FEDORCHAK, Mr. ELLZEY, Ms. BOEBERT, Mr. PFLUGER, Mr. PALMER, Mr. MEUSER, Mr. EDWARDS, Mrs. HOUCHIN, Mr. BOST, Mr. GROTHMAN, Mr. WITTMAN, Mrs. MILLER of West Virginia, Mrs. HARSHBARGER, Mr. MOORE of Alabama, Mr. WEBER of Texas, Mr. WILLIAMS of Texas, Mr. MCGUIRE, Mr. ALLEN, Mr. STAUBER, Mr. CRAWFORD, and Mr. WALBERG

APRIL 28, 2026

Reported with an amendment, committed to the Committee of the Whole  
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on January 3, 2025]

# **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 Per-*  
 5 *mitting Improvement Act”.*

6 **SEC. 2. CLARIFICATION OF DEFINITION OF A MODIFICA-**  
 7 **TION: EMISSION RATE INCREASES, POLLU-**  
 8 **TION CONTROL, EFFICIENCY, SAFETY, AND**  
 9 **RELIABILITY PROJECTS.**

10 *Paragraph (4) of section 111(a) of the Clean Air Act*  
 11 *(42 U.S.C. 7411(a)) is amended—*

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

13 *(2) by inserting before the period at the end the*  
 14 *following: “. For purposes of the preceding sentence,*  
 15 *a change increases the amount of any air pollutant*  
 16 *emitted by such source only if the maximum hourly*  
 17 *emission rate of an air pollutant that is achievable by*  
 18 *such source after the change is higher than the max-*  
 19 *imum hourly emission rate of such air pollutant that*  
 20 *was achievable by such source during any hour in the*  
 21 *10-year period immediately preceding the change”;*  
 22 *and*

23 *(3) by adding at the end the following:*

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

4                     “(i) to reduce the amount of any air pollut-  
 5                     ant emitted by the source per unit of production;  
 6                     or

7                     “(ii) to restore, maintain, or improve the  
 8                     reliability of operations at, or the safety of, the  
 9                     source,

10           except, with respect to either clause (i) or (ii), when  
 11           the change would be a modification as defined in sub-  
 12           paragraph (A) and the Administrator determines that  
 13           the increase in the maximum achievable hourly emis-  
 14           sion rate of a pollutant from such change would cause  
 15           an adverse effect on human health or the environ-  
 16           ment.”.

17   **SEC. 3. CLARIFICATION OF DEFINITION OF CONSTRUCTION**  
 18                     **AND APPLICABILITY OF PRECONSTRUCTION**  
 19                     **REQUIREMENTS FOR PREVENTION OF SIG-**  
 20                     **NIFICANT DETERIORATION.**

21           (a) *APPLICABILITY TO CONSTRUCTION ACTIVITIES.*—  
 22           Section 165 of the Clean Air Act (42 U.S.C. 7475) is  
 23           amended by adding at the end the following:

24           “(f) *APPLICABILITY TO CONSTRUCTION.*—

1           “(1) *IN GENERAL.*—*The requirements of sub-*  
 2           *section (a) that apply with respect to authorizing con-*  
 3           *struction of a major emitting facility shall apply only*  
 4           *with respect to construction that involves physical*  
 5           *construction of the discrete parts of an emissions unit*  
 6           *at a major emitting facility, regardless of whether the*  
 7           *construction involves other physical on-site activities*  
 8           *at the major emitting facility, including any such*  
 9           *other physical on-site activity that—*

10                   “(A) *may be costly;*

11                   “(B) *may significantly alter the site;*

12                   “(C) *is permanent in nature; or*

13                   “(D) *is to accommodate an installation to*  
 14                   *an emissions unit.*

15           “(2) *DEFINITION OF EMISSIONS UNIT.*—*In this*  
 16           *subsection, the term ‘emissions unit’ means any part*  
 17           *of a stationary source that emits, or has the potential*  
 18           *to emit, any air pollutant that is regulated under this*  
 19           *title.’.*

20           (b) *DEFINITION.*—*Subparagraph (C) of section 169(2)*  
 21           *of the Clean Air Act (42 U.S.C. 7479(2)) is amended to*  
 22           *read as follows:*

23                   “(C) *The term ‘construction’, when used in con-*  
 24                   *nection with a major emitting facility, includes a*  
 25                   *modification (as defined in section 111(a)) at such fa-*

1        *cility, except that for purposes of this subparagraph*  
 2        *a modification does not include a change at a major*  
 3        *emitting facility that does not result in a significant*  
 4        *emissions increase, or a significant net emissions in-*  
 5        *crease, in annual actual emissions at such facility.”.*

6        **SEC. 4. CLARIFICATION OF DEFINITION OF MODIFICATIONS**  
 7                                **AND MODIFIED AND APPLICABILITY TO CON-**  
 8                                **STRUCTION FOR NONATTAINMENT AREAS.**

9        (a) *DEFINITION.*—Paragraph (4) of section 171 of the  
 10        *Clean Air Act (42 U.S.C. 7501) is amended to read as fol-*  
 11        *lows:*

12                “(4) The terms ‘modifications’ and ‘modified’  
 13        *mean a modification as defined in section 111(a)(4),*  
 14        *except that such terms do not include a change at a*  
 15        *major emitting facility that does not result in a sig-*  
 16        *nificant emissions increase, or a significant net emis-*  
 17        *sions increase, in annual actual emissions at such fa-*  
 18        *cility.”.*

19        (b) *APPLICABILITY TO CONSTRUCTION.*—Section  
 20        *172(c)(5) of the Clean Air Act (42 U.S.C. 7502(c)(5)) is*  
 21        *amended by adding at the end the following: “The construc-*  
 22        *tion for which a permit is required under this paragraph*  
 23        *is construction that involves physical construction of the*  
 24        *discrete parts of an emissions unit (as defined in section*  
 25        *165(f)(2)) at a major stationary source, regardless of wheth-*

1 *er the construction involves other physical on-site activities*  
2 *at the major stationary source, including any such other*  
3 *physical on-site activity that—*

4 *“(A) may be costly;*

5 *“(B) may significantly alter the site;*

6 *“(C) is permanent in nature; or*

7 *“(D) is to accommodate an installation to*  
8 *an emissions unit.”.*

9 ***SEC. 5. RULE OF CONSTRUCTION.***

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

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