

## DISCUSSION DRAFT

119TH CONGRESS  
1ST SESSION

# H. R. \_\_\_\_\_

To require the Administrator of the Environmental Protection Agency to publish, concurrently with any final rule establishing or revising a national ambient air quality standard, regulations and guidance for implementing the standard, including information relating to submission and consideration of a preconstruction permit application under the new or revised standard, and for other purposes.

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### IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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## A BILL

To require the Administrator of the Environmental Protection Agency to publish, concurrently with any final rule establishing or revising a national ambient air quality standard, regulations and guidance for implementing the standard, including information relating to submission and consideration of a preconstruction permit application under the new or revised standard, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Clean Air and Building  
3 Infrastructure Improvement Act”.

4 **SEC. 2. PRECONSTRUCTION PERMITS.**

5 Section 109 of the Clean Air Act (42 U.S.C. 7409)  
6 is amended by adding at the end the following:

7 “(e) **TIMELY ISSUANCE OF IMPLEMENTING REGULA-**  
8 **TIONS AND GUIDANCE.—**

9 “(1) **IN GENERAL.—**In publishing any final rule  
10 establishing or revising a national ambient air qual-  
11 ity standard, the Administrator shall, to assist  
12 States, permitting authorities, and permit appli-  
13 cants, concurrently publish final regulations and  
14 guidance for implementing the standard, including  
15 information relating to submission and consideration  
16 of a preconstruction permit application under the  
17 new or revised standard.

18 “(2) **APPLICABILITY OF STANDARD TO**  
19 **PRECONSTRUCTION PERMITTING.—**If the Adminis-  
20 trator fails to publish final regulations and guidance  
21 under paragraph (1) that include information relat-  
22 ing to submission and consideration of a  
23 preconstruction permit application under a new or  
24 revised national ambient air quality standard con-  
25 currently with such standard, then such standard  
26 shall not apply to the review and disposition of a

1       preconstruction permit application until the Admin-  
2       istrator has published such final regulations and  
3       guidance.

4               “(3) RULES OF CONSTRUCTION.—

5               “(A) Nothing in this subsection shall be  
6       construed to preclude the Administrator from  
7       issuing regulations and guidance to assist  
8       States, permitting authorities, and permit appli-  
9       cants in implementing a national ambient air  
10      quality standard subsequent to publishing regu-  
11     lations and guidance for such standard under  
12     paragraph (1).

13              “(B) Nothing in this subsection shall be  
14      construed to eliminate the obligation of a  
15      preconstruction permit applicant to install best  
16      available control technology and lowest achiev-  
17      able emission rate technology, as applicable.

18              “(C) Nothing in this subsection shall be  
19      construed to limit the authority of a State,  
20      local, or Tribal permitting authority to impose  
21      more stringent emissions requirements pursu-  
22      ant to State, local, or Tribal law than national  
23      ambient air quality standards.

24              “(4) DEFINITIONS.—In this subsection:

1           “(A) The term ‘best available control tech-  
2           nology’ has the meaning given to that term in  
3           section 169(3).

4           “(B) The term ‘lowest achievable emission  
5           rate’ has the meaning given to that term in sec-  
6           tion 171(3).

7           “(C) The term ‘preconstruction permit’—

8                   “(i) means a permit that is required  
9                   under this title for the construction or  
10                  modification of a stationary source; and

11                   “(ii) includes any such permit issued  
12                  by the Environmental Protection Agency  
13                  or a State, local, or Tribal permitting au-  
14                  thority.”.

15 **SEC. 3. CERTAIN PRECONSTRUCTION PERMITS.**

16           (a) IN GENERAL.—The 2024 Primary Annual Partic-  
17           ulate Matter<sub>2.5</sub> Standard shall not apply to the review and  
18           disposition of a preconstruction permit application if—

19                   (1) the Administrator or the State, local, or  
20                   Tribal permitting authority, as applicable, deter-  
21                   mines the application to be complete on or before  
22                   the date of promulgation of the final designation of  
23                   the area involved under section 107(d) of the Clean  
24                   Air Act (42 U.S.C. 7407(d)) with respect to the

1 2024 Primary Annual Particulate Matter<sub>2.5</sub> Stand-  
2 ard; or

3 (2) the Administrator or the State, local, or  
4 Tribal permitting authority, as applicable, publishes  
5 a public notice of a preliminary determination or  
6 draft permit for the application before the date that  
7 is 60 days after the date of promulgation of the final  
8 designation of the area involved under section  
9 107(d) of the Clean Air Act (42 U.S.C. 7407(d))  
10 with respect to the 2024 Primary Annual Particu-  
11 late Matter<sub>2.5</sub> Standard.

12 (b) RULES OF CONSTRUCTION.—Nothing in this sec-  
13 tion shall be construed to—

14 (1) eliminate the obligation of a preconstruction  
15 permit applicant to install best available control  
16 technology and lowest achievable emission rate tech-  
17 nology, as applicable; or

18 (2) limit the authority of a State, local, or Trib-  
19 al permitting authority to impose more stringent  
20 emissions requirements pursuant to State, local, or  
21 Tribal law than national ambient air quality stand-  
22 ards.

23 (c) DEFINITIONS.—In this section:

1           (1) ADMINISTRATOR.—The term “Adminis-  
2           trator” means the Administrator of the Environ-  
3           mental Protection Agency.

4           (2) BEST AVAILABLE CONTROL TECH-  
5           NOLOGY.—The term “best available control tech-  
6           nology” has the meaning given to that term in sec-  
7           tion 169(3) of the Clean Air Act (42 U.S.C.  
8           7479(3)).

9           (3) LOWEST ACHIEVABLE EMISSION RATE.—  
10          The term “lowest achievable emission rate” has the  
11          meaning given to that term in section 171(3) of the  
12          Clean Air Act (42 U.S.C. 7501(3)).

13          (4) NATIONAL AMBIENT AIR QUALITY STAND-  
14          ARD.—The term “national ambient air quality  
15          standard” means a national ambient air quality  
16          standard promulgated under section 109 of the  
17          Clean Air Act (42 U.S.C. 7409).

18          (5) PRECONSTRUCTION PERMIT.—The term  
19          “preconstruction permit”—

20                 (A) means a permit that is required under  
21                 title I of the Clean Air Act (42 U.S.C. 7401 et  
22                 seq.) for the construction or modification of a  
23                 stationary source; and

1 (B) includes any such permit issued by the  
2 Environmental Protection Agency or a State,  
3 local, or Tribal permitting authority.

4 (6) 2024 PRIMARY ANNUAL PARTICULATE MAT-  
5 TER<sub>2.5</sub> STANDARD.—The term “2024 Primary An-  
6 nual Particulate Matter<sub>2.5</sub> Standard” means the  
7 final rule titled “Reconsideration of the National  
8 Ambient Air Quality Standards for Particulate Mat-  
9 ter” published in the Federal Register on March 6,  
10 2024 (89 Fed. Reg. 16202).