

[DISCUSSION DRAFT]115TH CONGRESS
2^D SESSION**H. R.** _____

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

Mr. GRIFFITH introduced the following bill; which was referred to the
Committee on _____

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 “____ Act of 2018”.

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 achiev-
12 able hourly emission rate of an air pollutant for such
13 source after the change is higher than such max-
14 imum achievable hourly emission rate for such
15 source during the 10-year period immediately pre-
16 ceding the change”; and

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

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

21 “(i) reduces the amount of any air pollut-
22 ant emitted by the source per unit of output; or

23 “(ii) is designed to restore, maintain, or
24 improve the reliability or safety of the source,
25 except when the change increases the maximum
26 achievable hourly emission rate of any air pollutant

1 for the source relative to such rate during the 10-
2 year period immediately preceding the change and
3 the Administrator determines that such increase is
4 harmful to human health or the environment and
5 that the change is not environmentally beneficial.”.

6 **SEC. 3. CLARIFICATION OF DEFINITION OF CONSTRUCTION**
7 **FOR PREVENTION OF SIGNIFICANT DETERIO-**
8 **RATION.**

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

11 “(C) The term ‘construction’, when used in
12 connection with a major emitting facility, in-
13 cludes a modification (as defined in section
14 111(a)) at such facility, except that for pur-
15 poses of this subparagraph a modification does
16 not include a change at a major emitting facil-
17 ity that does not result in a significant emis-
18 sions increase, or a significant net emissions in-
19 crease, in annual actual emissions at such facil-
20 ity.”.

21 **SEC. 4. CLARIFICATION OF DEFINITION OF MODIFICA-**
22 **TIONS AND MODIFIED FOR NONATTAINMENT**
23 **AREAS.**

24 Paragraph (4) of section 171 of the Clean Air Act
25 (42 U.S.C. 7501) is amended to read as follows:

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

8 **SEC. 5. RULE OF CONSTRUCTION.**

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