

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3128
OFFERED BY M . _____**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “New Source Review
3 Permitting Improvement Act of 2018”.

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

8 Paragraph (4) of section 111(a) of the Clean Air Act
9 (42 U.S.C. 7411(a)) is amended—

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

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

1 in the 10-year period immediately preceding the
2 change”; and

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

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

7 “(i) to reduce the amount of any air pol-
8 lutant emitted by the source per unit of produc-
9 tion; or

10 “(ii) to restore, maintain, or improve the
11 reliability of operations at, or the safety of, the
12 source,

13 except, with respect to either clause (i) or (ii), when
14 the change would be a modification as defined in
15 subparagraph (A) and the Administrator determines
16 that the increase in the maximum achievable hourly
17 emission rate of a pollutant from such change would
18 cause an adverse effect on human health or the envi-
19 ronment.”.

20 **SEC. 3. CLARIFICATION OF DEFINITION OF CONSTRUCTION**
21 **FOR PREVENTION OF SIGNIFICANT DETERIO-**
22 **RATION.**

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

1 “(C) The term ‘construction’, when used in
2 connection with a major emitting facility, in-
3 cludes a modification (as defined in section
4 111(a)) at such facility, except that for pur-
5 poses of this subparagraph a modification does
6 not include a change at a major emitting facil-
7 ity that does not result in a significant emis-
8 sions increase, or a significant net emissions in-
9 crease, in annual actual emissions at such facil-
10 ity.”.

11 **SEC. 4. CLARIFICATION OF DEFINITION OF MODIFICA-**
12 **TIONS AND MODIFIED FOR NONATTAINMENT**
13 **AREAS.**

14 Paragraph (4) of section 171 of the Clean Air Act
15 (42 U.S.C. 7501) is amended to read as follows:

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

23 **SEC. 5. RULE OF CONSTRUCTION.**

24 Nothing in this Act or the amendments made by this
25 Act shall be construed to treat any change as a modifica-

1 tion for purposes of any provision of the Clean Air Act
2 (42 U.S.C. 7401 et seq.) if such change would not have
3 been so treated as of the day before the date of enactment
4 of this Act.

Amend the title so as to read: “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.”.

