

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 3999
OFFERED BY MR. PITTS OF PENNSYLVANIA**

At the end of the bill, add the following:

1 **SEC. 7. NEW REFINING CAPACITY.**

2 (a) DEFINITIONS.—

3 (1) the term “base closure law” means the De-
4 fense Base Closure and Realignment Act of 1990
5 (part A of title XXIX of Public Law 101–510; 10
6 U.S.C. 2687 note) and title II of the Defense Au-
7 thorization Amendments and Base Closure and Re-
8 alignment Act (Public Law 100–526; 10 U.S.C.
9 2687 note);

10 (2) the term “closed military installation”
11 means a military installation closed or approved for
12 closure pursuant to a base closure law;

13 (3) the term “designated refinery” means a re-
14 finery designated under section 2(a);

15 (4) the term “Federal refinery authorization”—

16 (A) means any authorization required
17 under Federal law, whether administered by a
18 Federal or State administrative agency or offi-

1 cial, with respect to siting, construction, expansion,
2 sion, or operation of a refinery; and

3 (B) includes any permits, special use au-
4 thorizations, certifications, opinions, or other
5 approvals required under Federal law with re-
6 spect to siting, construction, expansion, or oper-
7 ation of a refinery;

8 (5) the term “refinery” means—

9 (A) a facility designed and operated to re-
10 ceive, load, unload, store, transport, process,
11 and refine crude oil by any chemical or physical
12 process, including distillation, fluid catalytic
13 cracking, hydrocracking, coking, alkylation,
14 etherification, polymerization, catalytic reform-
15 ing, isomerization, hydrotreating, blending, and
16 any combination thereof, in order to produce
17 gasoline or other fuel; or

18 (B) a facility designed and operated to re-
19 ceive, load, unload, store, transport, process,
20 and refine coal by any chemical or physical
21 process, including liquefaction, in order to
22 produce gasoline, diesel, or other liquid fuel as
23 its primary output;

24 (6) the term “Secretary” means the Secretary
25 of Energy; and

1 (7) the term "State" means a State, the Dis-
2 trict of Columbia, the Commonwealth of Puerto
3 Rico, and any other territory or possession of the
4 United States.

5 (b) STATE PARTICIPATION AND PRESIDENTIAL DES-
6 IGNATION.—

7 (1) DESIGNATION REQUIREMENT.—Not later
8 than 90 days after the date of enactment of this
9 Act, the President shall designate no less than 3
10 closed military installations, or portions thereof, sub-
11 ject to subsection (c)(2), that are appropriate for the
12 purposes of siting a refinery.

13 (2) ANALYSIS OF REFINERY SITES.—In consid-
14 ering any site for possible designation under sub-
15 section (a), the President shall conduct an analysis
16 of—

17 (A) the availability of crude oil supplies to
18 the site, including supplies from domestic pro-
19 duction of shale oil and tar sands and other
20 strategic unconventional fuels;

21 (B) the distribution of the Nation's refined
22 petroleum product demand;

23 (C) whether such site is in close proximity
24 to substantial pipeline infrastructure, including
25 both crude oil and refined petroleum product

1 pipelines, and potential infrastructure feasi-
2 bility;

3 (D) the need to diversify the geographical
4 location of the domestic refining capacity;

5 (E) the effect that increased refined petro-
6 leum products from a refinery on that site may
7 have on the price and supply of gasoline to con-
8 sumers;

9 (F) the impact of locating a refinery on
10 the site on the readiness and operations of the
11 Armed Forces; and

12 (G) such other factors as the President
13 considers appropriate.

14 (3) SALE OR DISPOSAL.—

15 (A) DESIGNATION.—Except as provided in
16 paragraph (2), until the expiration of 2 years
17 after the date of enactment of this Act, the
18 Federal Government shall not sell or otherwise
19 dispose of the military installations designated
20 pursuant to subsection (a).

21 (B) GOVERNOR'S OBJECTION.—No site
22 may be used for a refinery under this Act if,
23 not later than 60 days after designation of the
24 site under subsection (a), the Governor of the
25 State in which the site is located transmits to

1 the President an objection to the designation,
2 unless, not later than 60 days after the Presi-
3 dent receives such objection, the Congress has
4 by law overridden the objection.

5 (4) REDEVELOPMENT AUTHORITY.—With re-
6 spect to a closed military installation, or portion
7 thereof, designated by the President as a potentially
8 suitable refinery site pursuant to subsection (a)—

9 (A) the redevelopment authority for the in-
10 stallation, in preparing or revising the redevel-
11 opment plan for the installation, shall consider
12 the feasibility and practicability of siting a re-
13 finery on the installation; and

14 (B) the Secretary of Defense, in managing
15 and disposing of real property at the installa-
16 tion pursuant to the base closure law applicable
17 to the installation, shall give substantial def-
18 erence to the recommendations of the redevelop-
19 ment authority, as contained in the redevelop-
20 ment plan for the installation, regarding the
21 siting of a refinery on the installation.

22 (c) PROCESS COORDINATION AND RULES OF PROCE-
23 DURE.—

24 (1) DESIGNATION AS LEAD AGENCY.—

1 (A) IN GENERAL.—The Department of
2 Energy shall act as the lead agency for the pur-
3 poses of coordinating all applicable Federal re-
4 finery authorizations and related environmental
5 reviews with respect to a designated refinery.

6 (B) OTHER AGENCIES.—Each Federal and
7 State agency or official required to provide a
8 Federal refinery authorization shall cooperate
9 with the Secretary and comply with the dead-
10 lines established by the Secretary.

11 (2) SCHEDULE.—

12 (A) SECRETARY'S AUTHORITY TO SET
13 SCHEDULE.—The Secretary shall establish a
14 schedule for all Federal refinery authorizations
15 with respect to a designated refinery. In estab-
16 lishing the schedule, the Secretary shall—

17 (i) ensure expeditious completion of
18 all such proceedings; and

19 (ii) accommodate the applicable sched-
20 ules established by Federal law for such
21 proceedings.

22 (B) FAILURE TO MEET SCHEDULE.—If a
23 Federal or State administrative agency or offi-
24 cial does not complete a proceeding for an ap-
25 proval that is required for a Federal refinery

1 authorization in accordance with the schedule
2 established by the Secretary under this sub-
3 section, the applicant may pursue remedies
4 under subsection (d).

5 (3) CONSOLIDATED RECORD.—The Secretary
6 shall, with the cooperation of Federal and State ad-
7 ministrative agencies and officials, maintain a com-
8 plete consolidated record of all decisions made or ac-
9 tions taken by the Secretary or by a Federal admin-
10 istrative agency or officer (or State administrative
11 agency or officer acting under delegated Federal au-
12 thority) with respect to any Federal refinery author-
13 ization. Such record shall be the record for judicial
14 review under subsection (d) of decisions made or ac-
15 tions taken by Federal and State administrative
16 agencies and officials, except that, if the Court de-
17 termines that the record does not contain sufficient
18 information, the Court may remand the proceeding
19 to the Secretary for further development of the con-
20 solidated record.

21 (4) JUDICIAL REVIEW.—

22 (A) IN GENERAL.—The United States
23 Court of Appeals for the District of Columbia
24 shall have original and exclusive jurisdiction
25 over any civil action for the review of—

1 (i) an order or action, related to a
2 Federal refinery authorization, by a Fed-
3 eral or State administrative agency or offi-
4 cial; and

5 (ii) an alleged failure to act by a Fed-
6 eral or State administrative agency or offi-
7 cial acting pursuant to a Federal refinery
8 authorization.

9 The failure of an agency or official to act on a
10 Federal refinery authorization in accordance
11 with the Secretary's schedule established pursu-
12 ant to subsection (b) shall be considered incon-
13 sistent with Federal law for the purposes of
14 paragraph (2) of this subsection.

15 (B) COURT ACTION.—If the Court finds
16 that an order or action described in paragraph
17 (1)(A) is inconsistent with the Federal law gov-
18 erning such Federal refinery authorization, or
19 that a failure to act as described in paragraph
20 (1)(B) has occurred, and the order, action, or
21 failure to act would prevent the siting, con-
22 struction, expansion, or operation of the des-
23 ignated refinery, the Court shall remand the
24 proceeding to the agency or official to take ap-
25 propriate action consistent with the order of the

1 Court. If the Court remands the order, action,
2 or failure to act to the Federal or State admin-
3 istrative agency or official, the Court shall set
4 a reasonable schedule and deadline for the
5 agency or official to act on remand.

6 (C) SECRETARY'S ACTION.—For any civil
7 action brought under this subsection, the Sec-
8 retary shall promptly file with the Court the
9 consolidated record compiled by the Secretary
10 pursuant to subsection (c).

11 (D) EXPEDITED REVIEW.—The Court
12 shall set any civil action brought under this
13 subsection for expedited consideration.

14 (E) ATTORNEY'S FEES.—In any action
15 challenging a Federal refinery authorization
16 that has been granted, reasonable attorney's
17 fees and other expenses of litigation shall be
18 awarded to the prevailing party. This para-
19 graph shall not apply to any action seeking
20 remedies for denial of a Federal refinery au-
21 thorization or failure to act on an application
22 for a Federal refinery authorization.

