

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 4776
OFFERED BY M. _____**

Page 4, line 4, strike “A Federal agency” and insert the following:

1 “(1) ENVIRONMENTAL DOCUMENTS.—A Fed-
2 eral agency”.

Page 4, after line 10, insert the following:

3 “(2) AUTHORIZATIONS.—
4 “(A) IN GENERAL.—Except as provided in
5 this subsection or existing law, a Federal agen-
6 cy may not revoke, rescind, withdraw, termi-
7 nate, suspend, amend, alter, or take any other
8 action to interfere with an authorization un-
9 less—

10 “(i) the Federal agency is required to
11 take such action by order of a court of
12 competent jurisdiction;

13 “(ii) the holder of the authorization
14 has materially breached the terms of the
15 authorization, or otherwise violated appli-
16 cable law;

1 “(iii) the authorization was obtained
2 through fraud, intentional concealment, or
3 material misrepresentation;

4 “(iv) such action is necessary to pre-
5 vent specific, immediate, substantial, and
6 proximate harm or damage to life, prop-
7 erty, national security, or defense that was
8 not considered in the underlying environ-
9 mental review process or final agency ac-
10 tion for the authorization; or

11 “(v) the Federal agency has received
12 a request from the holder of the authoriza-
13 tion or project sponsor to take such action.

14 “(B) REQUIREMENT.—The actions de-
15 scribed in subparagraph (A) shall be, as appro-
16 priate and where feasible, supported by clear
17 and convincing evidence and reasonably limited
18 in duration and scope by the agency to address
19 the specific issue such action is intended to ad-
20 dress.

21 “(C) NOTICE.—Before an agency takes an
22 action described in subparagraph (A), the agen-
23 cy shall notify the holder of the authorization
24 and the project sponsor in writing of such ac-
25 tion, including by providing a detailed expla-

1 nation of the action, identifying the statutory
2 authority relied upon for the action, and pro-
3 viding the evidence supporting the action.

4 “(D) JUDICIAL REVIEW.—

5 “(i) IN GENERAL.—An action de-
6 scribed in subparagraph (A) shall be sub-
7 ject to judicial review under chapter 7 of
8 title 5, United States Code.

9 “(ii) VENUE.—A person seeking judi-
10 cial review of an action described in sub-
11 paragraph (A) may only obtain review of
12 such action in the United States court of
13 appeals for any circuit wherein the project
14 for which the authorization was issued is
15 located.

16 “(iii) PETITIONS BY FEDERAL AGEN-
17 CIES.—No Federal agency may petition a
18 court for vacatur or voluntary remand of
19 an authorization unless the holder of the
20 authorization or the project sponsor con-
21 sents in writing to such a petition.

22 “(E) SAVINGS CLAUSE.—Nothing in sub-
23 paragraph (A) shall be construed to provide any
24 Federal agency new, enhanced, or expanded au-

1 thority, or to limit any existing authority, con-
2 cerning any authorization.”.

