

**AMENDMENT TO H.R. 2776, AS REPORTED
OFFERED BY MR. KIRK OF ILLINOIS**

At the end of subtitle A of title III, add the following:

1 **SEC. 304. DENIAL OF REFINERY EXPENSING IN THE CASE**
2 **OF PERMITS ALLOWING INCREASED POLLU-**
3 **TION INTO THE GREAT LAKES.**

4 (a) IN GENERAL.—Section 179C (relating to election
5 to expense certain refineries) is amended by adding at the
6 end the following new subsection:

7 “(i) DENIAL OF EXPENSING IN CASES OF IN-
8 CREASED GREAT LAKES POLLUTION.—

9 “(1) IN GENERAL.—Subsection (a) shall not
10 apply to any taxpayer for any taxable year if such
11 taxpayer—

12 “(A) is a Great Lakes polluter for such
13 taxable year, or

14 “(B) is related to any taxpayer who is a
15 Great Lakes polluter for the taxable year of
16 such polluter which ends in or with such taxable
17 year of the taxpayer.

18 “(2) GREAT LAKES POLLUTER.—For purposes
19 of this subsection, the term ‘Great Lakes polluter’

1 means any person for any taxable year if such per-
2 son owns, directly or indirectly, any portion of a re-
3 finery which is covered by a National Pollutant Dis-
4 charge Elimination System permit issued by the En-
5 vironmental Protection Agency (or an equivalent
6 permit issued by a State) which permits such refin-
7 ery, for any period which is part of such taxable
8 year, to discharge any pollutant into the Great
9 Lakes in a quantity which (when expressed as an
10 annual limitation) exceeds the quantity (if any) of
11 such pollutant which was permitted to be discharged
12 into the Great Lakes from such refinery for calendar
13 year 2006 under any National Pollutant Discharge
14 Elimination System permit (or equivalent permit).

15 “(3) RELATED PERSONS.—For purposes of this
16 subsection, a person shall be treated as related to
17 another person if such persons are treated as a sin-
18 gles employer under subsection (a) or (b) of section
19 52 or subsection (m) or (o) of section 414.

20 “(4) SPECIAL RULE FOR NEW REFINERIES.—In
21 the case of any refinery originally placed in service
22 after December 31, 2005—

23 “(A) paragraph (2) shall be applied by
24 substituting ‘the 1-year period beginning with

1 the date that such refinery was originally placed
2 in service' for 'calendar year 2006', and

3 “(B) such refinery shall not be taken into
4 account under this subsection with respect to
5 any taxable year beginning before the end of
6 such 1-year period.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to taxable years ending after the
9 date of the enactment of this Act.