

109TH CONGRESS
2^D SESSION

H. R. 5254

IN THE SENATE OF THE UNITED STATES

JUNE 8, 2006

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To set schedules for the consideration of permits for
refineries.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Refinery Permit Proc-
3 ess Schedule Act”.

4 **SEC. 2. DEFINITIONS.**

5 For purposes of this Act—

6 (1) the term “Administrator” means the Ad-
7 ministrator of the Environmental Protection Agency;

8 (2) the term “applicant” means a person who
9 is seeking a Federal refinery authorization;

10 (3) the term “biomass” has the meaning given
11 that term in section 932(a)(1) of the Energy Policy
12 Act of 2005;

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

14 (A) means any authorization required
15 under Federal law, whether administered by a
16 Federal or State administrative agency or offi-
17 cial, with respect to siting, construction, expan-
18 sion, or operation of a refinery; and

19 (B) includes any permits, licenses, special
20 use authorizations, certifications, opinions, or
21 other approvals required under Federal law
22 with respect to siting, construction, expansion,
23 or operation of a refinery;

24 (5) the term “refinery” means—

25 (A) a facility designed and operated to re-
26 ceive, load, unload, store, transport, process,

1 and refine crude oil by any chemical or physical
2 process, including distillation, fluid catalytic
3 cracking, hydrocracking, coking, alkylation,
4 etherification, polymerization, catalytic reform-
5 ing, isomerization, hydrotreating, blending, and
6 any combination thereof, in order to produce
7 gasoline or distillate;

8 (B) a facility designed and operated to re-
9 ceive, load, unload, store, transport, process,
10 and refine coal by any chemical or physical
11 process, including liquefaction, in order to
12 produce gasoline or diesel as its primary out-
13 put; or

14 (C) a facility designed and operated to re-
15 ceive, load, unload, store, transport, process (in-
16 cluding biochemical, photochemical, and bio-
17 technology processes), and refine biomass in
18 order to produce biofuel; and

19 (6) the term “State” means a State, the Dis-
20 trict of Columbia, the Commonwealth of Puerto
21 Rico, and any other territory or possession of the
22 United States.

23 **SEC. 3. STATE ASSISTANCE.**

24 (a) STATE ASSISTANCE.—At the request of a gov-
25 ernor of a State, the Administrator is authorized to pro-

1 vide financial assistance to that State to facilitate the hir-
2 ing of additional personnel to assist the State with exper-
3 tise in fields relevant to consideration of Federal refinery
4 authorizations.

5 (b) OTHER ASSISTANCE.—At the request of a gov-
6 ernor of a State, a Federal agency responsible for a Fed-
7 eral refinery authorization shall provide technical, legal,
8 or other nonfinancial assistance to that State to facilitate
9 its consideration of Federal refinery authorizations.

10 **SEC. 4. REFINERY PROCESS COORDINATION AND PROCE-**
11 **DURES.**

12 (a) APPOINTMENT OF FEDERAL COORDINATOR.—

13 (1) IN GENERAL.—The President shall appoint
14 a Federal coordinator to perform the responsibilities
15 assigned to the Federal coordinator under this Act.

16 (2) OTHER AGENCIES.—Each Federal and
17 State agency or official required to provide a Fed-
18 eral refinery authorization shall cooperate with the
19 Federal coordinator.

20 (b) FEDERAL REFINERY AUTHORIZATIONS.—

21 (1) MEETING PARTICIPANTS.—Not later than
22 30 days after receiving a notification from an appli-
23 cant that the applicant is seeking a Federal refinery
24 authorization pursuant to Federal law, the Federal
25 coordinator appointed under subsection (a) shall

1 convene a meeting of representatives from all Fed-
2 eral and State agencies responsible for a Federal re-
3 finery authorization with respect to the refinery. The
4 governor of a State shall identify each agency of
5 that State that is responsible for a Federal refinery
6 authorization with respect to that refinery.

7 (2) MEMORANDUM OF AGREEMENT.—(A) Not
8 later than 90 days after receipt of a notification de-
9 scribed in paragraph (1), the Federal coordinator
10 and the other participants at a meeting convened
11 under paragraph (1) shall establish a memorandum
12 of agreement setting forth the most expeditious co-
13 ordinated schedule possible for completion of all
14 Federal refinery authorizations with respect to the
15 refinery, consistent with the full substantive and
16 procedural review required by Federal law. If a Fed-
17 eral or State agency responsible for a Federal refin-
18 ery authorization with respect to the refinery is not
19 represented at such meeting, the Federal coordinator
20 shall ensure that the schedule accommodates those
21 Federal refinery authorizations, consistent with Fed-
22 eral law. In the event of conflict among Federal re-
23 finery authorization scheduling requirements, the re-
24 quirements of the Environmental Protection Agency
25 shall be given priority.

1 (B) Not later than 15 days after completing the
2 memorandum of agreement, the Federal coordinator
3 shall publish the memorandum of agreement in the
4 Federal Register.

5 (C) The Federal coordinator shall ensure that
6 all parties to the memorandum of agreement are
7 working in good faith to carry out the memorandum
8 of agreement, and shall facilitate the maintenance of
9 the schedule established therein.

10 (c) CONSOLIDATED RECORD.—The Federal coordi-
11 nator shall, with the cooperation of Federal and State ad-
12 ministrative agencies and officials, maintain a complete
13 consolidated record of all decisions made or actions taken
14 by the Federal coordinator or by a Federal administrative
15 agency or officer (or State administrative agency or officer
16 acting under delegated Federal authority) with respect to
17 any Federal refinery authorization. Such record shall be
18 the record for judicial review under subsection (d) of deci-
19 sions made or actions taken by Federal and State adminis-
20 trative agencies and officials, except that, if the Court de-
21 termines that the record does not contain sufficient infor-
22 mation, the Court may remand the proceeding to the Fed-
23 eral coordinator for further development of the consoli-
24 dated record.

25 (d) REMEDIES.—

1 (1) IN GENERAL.—The United States District
2 Court for the district in which the proposed refinery
3 is located shall have exclusive jurisdiction over any
4 civil action for the review of the failure of an agency
5 or official to act on a Federal refinery authorization
6 in accordance with the schedule established pursuant
7 to the memorandum of agreement.

8 (2) STANDING.—If an applicant or a party to
9 a memorandum of agreement alleges that a failure
10 to act described in paragraph (1) has occurred and
11 that such failure to act would jeopardize timely com-
12 pletion of the entire schedule as established in the
13 memorandum of agreement, such applicant or other
14 party may bring a cause of action under this sub-
15 section.

16 (3) COURT ACTION.—If an action is brought
17 under paragraph (2), the Court shall review whether
18 the parties to the memorandum of agreement have
19 been acting in good faith, whether the applicant has
20 been cooperating fully with the agencies that are re-
21 sponsible for issuing a Federal refinery authoriza-
22 tion, and any other relevant materials in the consoli-
23 dated record. Taking into consideration those fac-
24 tors, if the Court finds that a failure to act de-
25 scribed in paragraph (1) has occurred, and that such

1 failure to act would jeopardize timely completion of
2 the entire schedule as established in the memo-
3 randum of agreement, the Court shall establish a
4 new schedule that is the most expeditious coordi-
5 nated schedule possible for completion of
6 proceedings, consistent with the full substantive and
7 procedural review required by Federal law. The
8 court may issue orders to enforce any schedule it es-
9 tablishes under this paragraph.

10 (4) FEDERAL COORDINATOR'S ACTION.—When
11 any civil action is brought under this subsection, the
12 Federal coordinator shall immediately file with the
13 Court the consolidated record compiled by the Fed-
14 eral coordinator pursuant to subsection (c).

15 (5) EXPEDITED REVIEW.—The Court shall set
16 any civil action brought under this subsection for ex-
17 pedited consideration.

18 **SEC. 5. DESIGNATION OF CLOSED MILITARY BASES.**

19 (a) DESIGNATION REQUIREMENT.—Not later than
20 90 days after the date of enactment of this Act, the Presi-
21 dent shall designate no less than 3 closed military installa-
22 tions, or portions thereof, as potentially suitable for the
23 construction of a refinery. At least 1 such site shall be
24 designated as potentially suitable for construction of a re-
25 finery to refine biomass in order to produce biofuel.

1 (b) REDEVELOPMENT AUTHORITY.—The redevelop-
2 ment authority for each installation designated under sub-
3 section (a), in preparing or revising the redevelopment
4 plan for the installation, shall consider the feasibility and
5 practicability of siting a refinery on the installation.

6 (c) MANAGEMENT AND DISPOSAL OF REAL PROP-
7 erty.—The Secretary of Defense, in managing and dis-
8 posing of real property at an installation designated under
9 subsection (a) pursuant to the base closure law applicable
10 to the installation, shall give substantial deference to the
11 recommendations of the redevelopment authority, as con-
12 tained in the redevelopment plan for the installation, re-
13 garding the siting of a refinery on the installation. The
14 management and disposal of real property at a closed mili-
15 tary installation or portion thereof found to be suitable
16 for the siting of a refinery under subsection (a) shall be
17 carried out in the manner provided by the base closure
18 law applicable to the installation.

19 (d) DEFINITIONS.—For purposes of this section—

20 (1) the term “base closure law” means the De-
21 fense Base Closure and Realignment Act of 1990
22 (part A of title XXIX of Public Law 101–510; 10
23 U.S.C. 2687 note) and title II of the Defense Au-
24 thorization Amendments and Base Closure and Re-

1 alignment Act (Public Law 100–526; 10 U.S.C.
2 2687 note); and

3 (2) the term “closed military installation”
4 means a military installation closed or approved for
5 closure pursuant to a base closure law.

6 **SEC. 6. SAVINGS CLAUSE.**

7 Nothing in this Act shall be construed to affect the
8 application of any environmental or other law, or to pre-
9 vent any party from bringing a cause of action under any
10 environmental or other law, including citizen suits.

11 **SEC. 7. REFINERY REVITALIZATION REPEAL.**

12 Subtitle H of title III of the Energy Policy Act of
13 2005 and the items relating thereto in the table of con-
14 tents of such Act are repealed.

Passed the House of Representatives June 7, 2006.

Attest:

KAREN L. HAAS,

Clerk.