

110TH CONGRESS  
2D SESSION

# H. R. 6139

To set schedules for the consideration of permits for refineries.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2008

Mrs. WILSON of New Mexico (for herself, Mr. BARTON of Texas, Mr. PITTS, Mr. HALL of Texas, Mr. UPTON, Mr. STEARNS, Mr. DEAL of Georgia, Mr. WHITFIELD of Kentucky, Mr. SHIMKUS, Mr. SHADEGG, Mr. PICKERING, Mr. BLUNT, Mr. BUYER, Mr. RADANOVICH, Mrs. BONO MACK, Mr. WALDEN of Oregon, Mr. TERRY, Mr. ROGERS of Michigan, Mrs. MYRICK, Mr. SULLIVAN, Mr. BURGESS, Mrs. BLACKBURN, Mr. BRADY of Texas, Mr. SAM JOHNSON of Texas, Mr. GALLEGLY, Mr. PEARCE, Mr. MCCRERY, Mr. NEUGEBAUER, Mr. MCCAUL of Texas, Mr. KUHL of New York, and Mr. ISSA) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act—

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

5 (2) the term “applicant” means a person who  
6 (with the approval of the governor of the State, or  
7 in the case of Native American tribes or tribal terri-  
8 tories the designated leader of the tribe or tribal  
9 community, where the proposed refinery would be lo-  
10 cated) is seeking a Federal refinery authorization;

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

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

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

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

25 (5) the term “refinery” means—

1 (A) a facility designed and operated to re-  
2 ceive, load, unload, store, transport, process,  
3 and refine crude oil by any chemical or physical  
4 process, including distillation, fluid catalytic  
5 cracking, hydrocracking, coking, alkylation,  
6 etherification, polymerization, catalytic reform-  
7 ing, isomerization, hydrotreating, blending, and  
8 any combination thereof, in order to produce  
9 gasoline or distillate;

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

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

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

1 **SEC. 3. STATE ASSISTANCE.**

2 (a) STATE ASSISTANCE.—At the request of a gov-  
3 ernor of a State, or in the case of Native American tribes  
4 or tribal territories the designated leader of the tribe or  
5 tribal community, the Administrator is authorized to pro-  
6 vide financial assistance to that State or tribe or tribal  
7 community to facilitate the hiring of additional personnel  
8 to assist the State or tribe or tribal community with exper-  
9 tise in fields relevant to consideration of Federal refinery  
10 authorizations.

11 (b) OTHER ASSISTANCE.—At the request of a gov-  
12 ernor of a State, or in the case of Native American tribes  
13 or tribal territories the designated leader of the tribe or  
14 tribal community, a Federal agency responsible for a Fed-  
15 eral refinery authorization shall provide technical, legal,  
16 or other nonfinancial assistance to that State or tribe or  
17 tribal community to facilitate its consideration of Federal  
18 refinery authorizations.

19 **SEC. 4. REFINERY PROCESS COORDINATION AND PROCE-**  
20 **DURES.**

21 (a) APPOINTMENT OF FEDERAL COORDINATOR.—

22 (1) IN GENERAL.—The President shall appoint  
23 a Federal coordinator to perform the responsibilities  
24 assigned to the Federal coordinator under this Act.

25 (2) OTHER AGENCIES.—Each Federal and  
26 State agency or official required to provide a Fed-

1 eral refinery authorization shall cooperate with the  
2 Federal coordinator.

3 (b) FEDERAL REFINERY AUTHORIZATIONS.—

4 (1) MEETING PARTICIPANTS.—Not later than  
5 30 days after receiving a notification from an appli-  
6 cant that the applicant is seeking a Federal refinery  
7 authorization pursuant to Federal law, the Federal  
8 coordinator appointed under subsection (a) shall  
9 convene a meeting of representatives from all Fed-  
10 eral and State agencies responsible for a Federal re-  
11 finery authorization with respect to the refinery. The  
12 governor of a State shall identify each agency of  
13 that State that is responsible for a Federal refinery  
14 authorization with respect to that refinery.

15 (2) MEMORANDUM OF AGREEMENT.—(A) Not  
16 later than 90 days after receipt of a notification de-  
17 scribed in paragraph (1), the Federal coordinator  
18 and the other participants at a meeting convened  
19 under paragraph (1) shall establish a memorandum  
20 of agreement setting forth the most expeditious co-  
21 ordinated schedule possible for completion of all  
22 Federal refinery authorizations with respect to the  
23 refinery, consistent with the full substantive and  
24 procedural review required by Federal law. If a Fed-  
25 eral or State agency responsible for a Federal refin-

1       ery authorization with respect to the refinery is not  
2       represented at such meeting, the Federal coordinator  
3       shall ensure that the schedule accommodates those  
4       Federal refinery authorizations, consistent with Fed-  
5       eral law. In the event of conflict among Federal re-  
6       finery authorization scheduling requirements, the re-  
7       quirements of the Environmental Protection Agency  
8       shall be given priority.

9               (B) Not later than 15 days after completing the  
10       memorandum of agreement, the Federal coordinator  
11       shall publish the memorandum of agreement in the  
12       Federal Register.

13              (C) The Federal coordinator shall ensure that  
14       all parties to the memorandum of agreement are  
15       working in good faith to carry out the memorandum  
16       of agreement, and shall facilitate the maintenance of  
17       the schedule established therein.

18       (c) CONSOLIDATED RECORD.—The Federal coordi-  
19       nator shall, with the cooperation of Federal and State ad-  
20       ministrative agencies and officials, maintain a complete  
21       consolidated record of all decisions made or actions taken  
22       by the Federal coordinator or by a Federal administrative  
23       agency or officer (or State administrative agency or officer  
24       acting under delegated Federal authority) with respect to  
25       any Federal refinery authorization. Such record shall be

1 the record for judicial review under subsection (d) of deci-  
2 sions made or actions taken by Federal and State adminis-  
3 trative agencies and officials, except that, if the Court de-  
4 termines that the record does not contain sufficient infor-  
5 mation, the Court may remand the proceeding to the Fed-  
6 eral coordinator for further development of the consoli-  
7 dated record.

8 (d) REMEDIES.—

9 (1) IN GENERAL.—The United States District  
10 Court for the district in which the proposed refinery  
11 is located shall have exclusive jurisdiction over any  
12 civil action for the review of the failure of an agency  
13 or official to act on a Federal refinery authorization  
14 in accordance with the schedule established pursuant  
15 to the memorandum of agreement.

16 (2) STANDING.—If an applicant or a party to  
17 a memorandum of agreement alleges that a failure  
18 to act described in paragraph (1) has occurred and  
19 that such failure to act would jeopardize timely com-  
20 pletion of the entire schedule as established in the  
21 memorandum of agreement, such applicant or other  
22 party may bring a cause of action under this sub-  
23 section.

24 (3) COURT ACTION.—If an action is brought  
25 under paragraph (2), the Court shall review whether

1 the parties to the memorandum of agreement have  
2 been acting in good faith, whether the applicant has  
3 been cooperating fully with the agencies that are re-  
4 sponsible for issuing a Federal refinery authoriza-  
5 tion, and any other relevant materials in the consoli-  
6 dated record. Taking into consideration those fac-  
7 tors, if the Court finds that a failure to act de-  
8 scribed in paragraph (1) has occurred, and that such  
9 failure to act would jeopardize timely completion of  
10 the entire schedule as established in the memo-  
11 randum of agreement, the Court shall establish a  
12 new schedule that is the most expeditious coordi-  
13 nated schedule possible for completion of pro-  
14 ceedings, consistent with the full substantive and  
15 procedural review required by Federal law. The  
16 court may issue orders to enforce any schedule it es-  
17 tablishes under this paragraph.

18 (4) FEDERAL COORDINATOR'S ACTION.—When  
19 any civil action is brought under this subsection, the  
20 Federal coordinator shall immediately file with the  
21 Court the consolidated record compiled by the Fed-  
22 eral coordinator pursuant to subsection (c).

23 (5) EXPEDITED REVIEW.—The Court shall set  
24 any civil action brought under this subsection for ex-  
25 pedited consideration.

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

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

9 (b) REDEVELOPMENT AUTHORITY.—The redevelop-  
10 ment authority for each installation designated under sub-  
11 section (a), in preparing or revising the redevelopment  
12 plan for the installation, shall consider the feasibility and  
13 practicability of siting a refinery on the installation.

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

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

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

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

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

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

17 **SEC. 7. REFINERY REVITALIZATION REPEAL.**

18 Subtitle H of title III of the Energy Policy Act of  
19 2005 and the items relating thereto in the table of con-  
20 tents of such Act are repealed.

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