

109TH CONGRESS
1ST SESSION

S. 1772

To streamline the refinery permitting process, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2005

Mr. INHOFE (for himself, Mr. DEMINT, Ms. MURKOWSKI, Mr. VOINOVICH, Mr. ISAKSON, Mr. THUNE, and Mr. BOND) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To streamline the refinery permitting process, and for other purposes.

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 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Gas Petroleum Refiner Improvement and Community
6 Empowerment Act” or the “Gas PRICE Act”.

7 (b) **TABLE OF CONTENTS.**—The table of contents of
8 this Act is as follows:

Sec. 1. Short title.

Sec. 2. Definitions.

TITLE I—ECONOMIC DEVELOPMENT ASSISTANCE TO ENCOURAGE
PETROLEUM-BASED REFINERY ACTIVITY ON BRAC PROPERTY

Sec. 101. Economic development assistance to encourage petroleum-based refinery activity on BRAC property.

TITLE II—REFINERY PERMITTING PROCESS

Sec. 201. Streamlining of refinery permitting process.

Sec. 202. Authorization of appropriations.

TITLE III—EFFICIENCY

Sec. 301. Efficiency.

TITLE IV—FUEL EMERGENCY WAIVERS AND BOUTIQUE FUEL
REDUCTIONS

Sec. 401. Fuel emergency waivers.

Sec. 402. Boutique fuel reductions.

TITLE V—FUTURE FUELS

Sec. 501. Future fuels.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATOR.—The term “Adminis-
4 trator” means the Administrator of the Environ-
5 mental Protection Agency.

6 (2) INDIAN TRIBE.—The term “Indian tribe”
7 has the meaning given the term in section 4 of the
8 Indian Self-Determination and Education Assistance
9 Act (25 U.S.C. 450b).

10 (3) PERMIT.—The term “permit” means any
11 permit, license, approval, variance, or other form of
12 authorization that a refiner is required to obtain
13 under any Federal, State, or Indian tribal law.

14 (4) REFINER.—The term “refiner” means a
15 person that—

1 (A) owns or operates a refinery; or

2 (B) seeks to become an owner or operator
3 of a refinery.

4 (5) REFINERY.—

5 (A) IN GENERAL.—The term “refinery”
6 means a facility at which crude oil is refined
7 into transportation fuel or other petroleum
8 products.

9 (B) INCLUSION.—The term “refinery” in-
10 cludes a refinery expansion.

11 (6) REFINERY EXPANSION.—The term “refin-
12 ery expansion” means a physical change in a refin-
13 ery that results in an increase in the capacity of the
14 refinery.

15 (7) REFINERY PERMITTING AGREEMENT.—The
16 term “refinery permitting agreement” means an
17 agreement entered into between the Administrator
18 and a State or Indian tribe under section 201.

19 (8) REFINERY PROJECT.—The term “refinery
20 project” means a project for—

21 (A) acquisition or development of a base
22 realignment and closure site for use for a petro-
23 leum refinery; or

24 (B) acquisition, development, rehabilita-
25 tion, expansion, or improvement of petroleum

1 refining operations on a base realignment and
 2 closure site or in a community affected by a
 3 base realignment and closure site.

4 (9) SECRETARY.—The term “Secretary” means
 5 the Secretary of Commerce.

6 (10) STATE.—The term “State” means—

7 (A) a State;

8 (B) the District of Columbia;

9 (C) the Commonwealth of Puerto Rico;

10 and

11 (D) any other territory or possession of the
 12 United States.

13 **TITLE I—ECONOMIC DEVELOP-**
 14 **MENT ASSISTANCE TO EN-**
 15 **COURAGE PETROLEUM-**
 16 **BASED REFINERY ACTIVITY**
 17 **ON BRAC PROPERTY**

18 **SEC. 101. ECONOMIC DEVELOPMENT ASSISTANCE TO EN-**
 19 **COURAGE PETROLEUM-BASED REFINERY AC-**
 20 **TIVITY ON BRAC PROPERTY.**

21 (a) PRIORITY.—Notwithstanding section 206 of the
 22 Public Works and Economic Development Act of 1965 (42
 23 U.S.C. 3146), in awarding funds made available to carry
 24 out section 209(c)(1) of that Act (42 U.S.C. 3149(c)(1))
 25 pursuant to section 702 of that Act (42 U.S.C. 3232),

1 the Secretary and the Economic Development Administra-
2 tion shall give priority to refinery projects.

3 (b) FEDERAL SHARE.—Except as provided in sub-
4 section (c)(3)(B) and notwithstanding the Public Works
5 and Economic Development Act of 1965 (42 U.S.C. 3121
6 et seq.), the Federal share of a refinery project shall be
7 80 percent of the project cost.

8 (c) ADDITIONAL AWARD.—

9 (1) IN GENERAL.—The Secretary shall make an
10 additional award in connection with a grant made to
11 a recipient for a refinery project.

12 (2) AMOUNT.—The amount of an additional
13 award shall be 10 percent of the amount of the
14 grant for the refinery project.

15 (3) USE.—An additional award under this sub-
16 section shall be used—

17 (A) to carry out any eligible purpose under
18 the Public Works and Economic Development
19 Act of 1965 (42 U.S.C. 3121 et seq.);

20 (B) notwithstanding section 204 of that
21 Act (42 U.S.C. 3144), to pay up to 100 percent
22 of the cost of an eligible project or activity
23 under that Act; or

24 (C) to meet the non-Federal share require-
25 ments of that Act or any other Act.

1 (4) NON-FEDERAL SOURCE.—For the purpose
2 of paragraph (3)(C), an additional award shall be
3 treated as funds from a non-Federal source.

4 (5) FUNDING.—The Secretary shall use to
5 carry out this subsection any amounts made avail-
6 able for economic development assistance programs
7 or under section 702 of that Act (42 U.S.C. 3232).

8 **TITLE II—REFINERY**
9 **PERMITTING PROCESS**

10 **SEC. 201. STREAMLINING OF REFINERY PERMITTING PROC-**
11 **ESS.**

12 (a) IN GENERAL.—At the request of the Governor
13 of a State or the governing body of an Indian tribe, the
14 Administrator shall enter into a refinery permitting agree-
15 ment with the State or Indian tribe under which the proc-
16 ess for obtaining all permits necessary for the construction
17 and operation of a refinery shall be streamlined using a
18 systematic interdisciplinary multimedia approach as pro-
19 vided in this title.

20 (b) AUTHORITY OF ADMINISTRATOR.—Under a refin-
21 ery permitting agreement—

22 (1) the Administrator shall have authority, as
23 applicable and necessary, to—

24 (A) accept from a refiner a consolidated
25 application for all permits that the refiner is re-

1 required to obtain to construct and operate a re-
2 finery;

3 (B) establish a schedule under which each
4 Federal, State, or Indian tribal government
5 agency that is required to make any determina-
6 tion to authorize the issuance of a permit
7 shall—

8 (i) concurrently consider, to the max-
9 imum extent practicable, each determina-
10 tion to be made; and

11 (ii) complete each step in the permit-
12 ting process; and

13 (C) issue a consolidated permit that com-
14 bines all permits that the refiner is required to
15 obtain; and

16 (2) the Administrator shall provide to State and
17 Indian tribal government agencies—

18 (A) financial assistance in such amounts as
19 the agencies reasonably require to hire such ad-
20 ditional personnel as are necessary to enable
21 the government agencies to comply with the ap-
22 plicable schedule established under paragraph
23 (1)(B); and

1 (B) technical, legal, and other assistance in
2 complying with the refinery permitting agree-
3 ment.

4 (c) AGREEMENT BY THE STATE.—Under a refinery
5 permitting agreement, a State or governing body of an In-
6 dian tribe shall agree that—

7 (1) the Administrator shall have each of the au-
8 thorities described in subsection (b); and

9 (2) each State or Indian tribal government
10 agency shall—

11 (A) make such structural and operational
12 changes in the agencies as are necessary to en-
13 able the agencies to carry out consolidated
14 project-wide permit reviews concurrently and in
15 coordination with the Environmental Protection
16 Agency and other Federal agencies; and

17 (B) comply, to the maximum extent prac-
18 ticable, with the applicable schedule established
19 under subsection (b)(1)(B).

20 (d) INTERDISCIPLINARY APPROACH.—

21 (1) IN GENERAL.—The Administrator and a
22 State or governing body of an Indian tribe shall in-
23 corporate an interdisciplinary approach, to the max-
24 imum extent practicable, in the development, review,
25 and approval of refinery permits subject to this title.

1 (2) OPTIONS.—Among other options, the inter-
2 disciplinary approach may include use of—

3 (A) environmental management practices;

4 and

5 (B) third party contractors.

6 (e) DEADLINES.—

7 (1) NEW REFINERIES.—In the case of a con-
8 solidated permit for the construction of a new refin-
9 ery, the Administrator and the State or governing
10 body of an Indian tribe shall approve or disapprove
11 the consolidated permit not later than—

12 (A) 270 days after the date of the receipt
13 of the application for the consolidated permit;

14 or

15 (B) on agreement of the applicant, the Ad-
16 ministrator, and the State or governing body of
17 the Indian tribe, 90 days after the expiration of
18 the deadline established under subparagraph

19 (A).

20 (2) EXPANSION OF EXISTING REFINERIES.—In
21 the case of a consolidated permit for the expansion
22 of an existing refinery, the Administrator and the
23 State or governing body of an Indian tribe shall ap-
24 prove or disapprove the consolidated permit not later
25 than—

1 (A) 90 days after the date of the receipt
2 of the application for the consolidated permit;
3 or

4 (B) on agreement of the applicant, the Ad-
5 ministrator, and the State or governing body of
6 the Indian tribe, 30 days after the expiration of
7 the deadline established under subparagraph
8 (A).

9 (f) FEDERAL AGENCIES.—Each Federal agency that
10 is required to make any determination to authorize the
11 issuance of a permit shall comply with the applicable
12 schedule established under subsection (b)(1)(B).

13 (g) JUDICIAL REVIEW.—Any civil action for review
14 of any determination of any Federal, State, or Indian trib-
15 al government agency in a permitting process conducted
16 under a refinery permitting agreement brought by any
17 person or entity shall be brought exclusively in the United
18 States district court for the district in which the refinery
19 is located or proposed to be located.

20 (h) EFFICIENT PERMIT REVIEW.—In order to reduce
21 the duplication of procedures, the Administrator shall use
22 State permitting and monitoring procedures to satisfy
23 substantially similar Federal requirements under this title.

24 (i) SEVERABILITY.—If 1 or more permits that are re-
25 quired for the construction or operation of a refinery are

1 not approved on or before any deadline established under
2 subsection (e), the Administrator may issue a consolidated
3 permit that combines all other permits that the refiner is
4 required to obtain other than any permits that are not
5 approved.

6 (j) SAVINGS.—Nothing in this section affects the op-
7 eration or implementation of otherwise applicable law re-
8 garding permits necessary for the construction and oper-
9 ation of a refinery.

10 **SEC. 202. AUTHORIZATION OF APPROPRIATIONS.**

11 There are authorized to be appropriated such sums
12 as are necessary to carry out this title.

13 **TITLE III—EFFICIENCY**

14 **SEC. 301. EFFICIENCY.**

15 (a) METHANE REDUCTION PROJECTS.—

16 (1) IN GENERAL.—Not later than 180 days
17 after the date of enactment of this Act, the Adminis-
18 trator shall solicit applications from eligible entities,
19 as determined by the Administrator, for grants
20 under the Natural Gas STAR Program under the
21 Environmental Protection Agency to pay the Federal
22 share of the cost of projects relating to the reduction
23 of methane emissions in the oil and gas industries.

1 (2) PROJECT INCLUSIONS.—To receive a grant
2 under paragraph (1), the application of the eligible
3 entity shall include—

4 (A) an identification of 1 or more tech-
5 nologies used to achieve a reduction in the
6 emission of methane; and

7 (B) an analysis of the cost-effectiveness of
8 a technology described in subparagraph (A).

9 (3) LIMITATION.—A grant to an eligible entity
10 under this subsection shall not exceed \$50,000.

11 (4) FEDERAL SHARE.—The Federal share of
12 the cost of a project under this subsection shall not
13 exceed 50 percent.

14 (5) AUTHORIZATION OF APPROPRIATIONS.—
15 There is authorized to be appropriated to carry out
16 this subsection \$1,000,000 for the period of fiscal
17 years 2006 through 2010.

18 (b) EFFICIENCY PROMOTION WORKSHOPS.—

19 (1) IN GENERAL.—The Administrator, in con-
20 junction with the Interstate Oil and Gas Compact
21 Commission, shall conduct a series of technical
22 workshops to provide information to officials in oil-
23 and gas-producing States relating to methane emis-
24 sion reduction techniques.

1 (2) AUTHORIZATION OF APPROPRIATIONS.—

2 There is authorized to be appropriated to carry out
3 this subsection \$1,000,000 for the period of fiscal
4 years 2006 through 2010.

5 **TITLE IV—FUEL EMERGENCY**
6 **WAIVERS AND BOUTIQUE**
7 **FUEL REDUCTIONS**

8 **SEC. 401. FUEL EMERGENCY WAIVERS.**

9 Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.
10 7545(c)(4)(C)) (as amended by section 1541 of the En-
11 ergy Policy Act of 2005 (Public Law 109–58; 119 Stat.
12 1106)) is amended—

13 (1) by redesignating the first clause (v) as
14 clause (vi);

15 (2) by redesignating the second clause (v) as
16 clause (vii); and

17 (3) by inserting after clause (iv) the following:

18 “(v) A State shall be held harmless and not be re-
19 quired to revise its State implementation plan under sec-
20 tion 110 to account for the emissions from a waiver grant-
21 ed by the Administrator under clause (ii).”.

22 **SEC. 402. BOUTIQUE FUEL REDUCTIONS.**

23 Section 211(c)(4)(C)(vii) of the Clean Air Act (42
24 U.S.C. 7545(c)(4)(C)(vii)) (as redesignated by section

1 401(2)) is amended by striking subclauses (III) and (IV)
 2 and inserting the following:

3 “(III) The Administrator shall remove a fuel from the
 4 list published under subclause (II) if a fuel ceases to be
 5 included in a State implementation plan or if a fuel in
 6 a State implementation plan is identical to a Federal fuel
 7 formulation implemented by the Administrator and shall
 8 reduce the total number of fuels permitted to be included
 9 in a State implementation plan or revision on the list pub-
 10 lished under subclause (II) accordingly.

11 “(IV) Subclause (I) shall not limit the authority of
 12 the Administrator to approve a control or prohibition re-
 13 specting any new fuel under this paragraph in a State im-
 14 plementation plan or revision to a State implementation
 15 plan if the new fuel completely replaces a fuel on the list
 16 published under subclause (II).”.

17 **TITLE V—FUTURE FUELS**

18 **SEC. 501. FUTURE FUELS.**

19 (a) EPA EVALUATION OF FISCHER-TROPSCH DIE-
 20 SEL AND JET FUEL AS AN EMISSION CONTROL STRAT-
 21 EGY.—

22 (1) IN GENERAL.—In cooperation with the Sec-
 23 retary of Energy, the Secretary of Defense, the Ad-
 24 ministrator of the Federal Aviation Administration,
 25 Secretary of Health and Human Services, and

1 Fischer-Tropsch industry representatives, the Ad-
2 ministrator shall—

3 (A) conduct a research and demonstration
4 program to evaluate the air quality benefits of
5 ultra-clean Fischer-Tropsch transportation fuel,
6 including diesel and jet fuel;

7 (B) evaluate the use of ultra-clean Fischer-
8 Tropsch transportation fuel as a mechanism for
9 reducing engine exhaust emissions; and

10 (C) submit recommendations to Congress
11 on the most effective use and associated bene-
12 fits of these ultra-clean fuel for reducing public
13 exposure to exhaust emissions.

14 (2) GUIDANCE AND TECHNICAL SUPPORT.—The
15 Administrator shall, to the extent necessary, issue
16 any guidance or technical support documents that
17 would facilitate the effective use and associated ben-
18 efit of Fischer-Tropsch fuel and blends.

19 (3) REQUIREMENTS.—The program described
20 in paragraph (1) shall consider—

21 (A) the use of neat (100 percent) Fischer-
22 Tropsch fuel and blends with conventional
23 crude oil-derived fuel for heavy-duty and light-
24 duty diesel engines and the aviation sector; and

1 (B) the production costs associated with
2 domestic production of those ultra clean fuel
3 and prices for consumers.

4 (4) REPORTS.—The Administrator shall submit
5 to the Committee on Environment and Public Works
6 of the Senate and the Committee on Energy and
7 Commerce of the House of Representatives—

8 (A) not later than October 1, 2006, an in-
9 terim report on actions taken to carry out this
10 subsection; and

11 (B) not later than December 1, 2007, a
12 final report on actions taken to carry out this
13 subsection.

14 (b) COMMERCIAL PRODUCTS FROM COAL AND PE-
15 TROLEUM COKE-BASED FISCHER-TROPSCH PROCESS
16 LOAN GUARANTEE PROGRAM.—

17 (1) IN GENERAL.—Funds made available under
18 paragraph (7) may be provided for the cost (as de-
19 fined in the Federal Credit Reform Act of 1990 (2
20 U.S.C. 661 et seq.)) of loan guarantees to carry out
21 domestic coal and petroleum coke-based Fischer-
22 Tropsch commercial demonstration projects for the
23 production of diesel and jet transportation fuel.

24 (2) DEMONSTRATION PROJECTS.—

1 (A) IN GENERAL.—Subject to paragraph
2 (5), the Administrator, in consultation with the
3 Secretary of the Treasury and Secretary of En-
4 ergy, shall issue loan guarantees under this
5 subsection to carry out not more than 2
6 projects to commercially demonstrate the feasi-
7 bility and viability of converting coal and petro-
8 leum coke, a refinery byproduct, into ultra-clean
9 Fischer-Tropsch diesel or jet fuel, including—

10 (i) 1 project to convert coal into ultra-
11 clean Fischer-Tropsch transportation fuel;
12 and

13 (ii) 1 project to convert a blend of
14 coal and petroleum coke into ultra-clean
15 Fischer-Tropsch transportation fuel.

16 (B) DESIGN CAPACITY.—Each project shall
17 have a design capacity to produce at least
18 100,000,000 gallons of Fischer-Tropsch diesel
19 or jet fuel each year.

20 (3) APPLICANT ASSURANCES.—An applicant for
21 a loan guarantee under this subsection shall provide
22 assurances, satisfactory to the Administrator, that—

23 (A) the recipient has demonstrated the
24 Fischer-Tropsch process of the applicant
25 through the operation of a domestic continuous

1 process facility with a cumulative output of at
2 least 50,000 gallons of diesel or jet fuel;

3 (B) the demonstration project—

4 (i) has been subject to a full technical
5 review;

6 (ii) is covered by adequate production
7 volume guarantees; and

8 (iii) with the loan guarantee, is eco-
9 nomically viable within the project life; and

10 (C) there is a reasonable assurance of re-
11 payment of the guaranteed loan.

12 (4) LIMITATIONS.—

13 (A) MAXIMUM GUARANTEE.—Except as
14 provided in subparagraph (B), a loan guarantee
15 under this subsection may be issued for up to
16 80 percent of the estimated cost of a project,
17 but may not exceed \$750,000,000 for a project.

18 (B) ADDITIONAL GUARANTEES.—

19 (i) IN GENERAL.—The Administrator
20 may issue additional loan guarantees for a
21 project to cover up to 80 percent of the ex-
22 cess of actual project cost over estimated
23 project cost but not to exceed 15 percent
24 of the amount of the original guarantee.

1 (ii) PRINCIPAL AND INTEREST.—Sub-
2 ject to subparagraph (A), the Adminis-
3 trator shall guarantee 100 percent of the
4 principal and interest of a loan guarantee
5 made under subparagraph (A).

6 (5) INSUFFICIENT AMOUNTS.—If the amount
7 made available to carry out this subsection is insuffi-
8 cient to allow the Administrator to make loan guar-
9 antees for the 2 projects described in paragraph (2),
10 the Administrator shall issue loan guarantees for 1
11 qualifying project under this subsection based on the
12 criteria established under paragraph (3), with the
13 priority given to a coal-based project.

14 (6) APPROVAL.—An application for a loan
15 guarantee under this subsection shall be approved or
16 disapproved by the Administrator not later than 90
17 days after the application is received by the Admin-
18 istrator.

19 (7) AUTHORIZATION OF APPROPRIATIONS.—
20 There are authorized to be appropriated such sums
21 as are necessary to carry out this subsection.

○