

110TH CONGRESS
1ST SESSION

H. R. 2279

To expedite the construction of new refining capacity on closed military installations in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2007

Mr. PITTS (for himself, Mr. WESTMORELAND, Mr. BUYER, Mrs. DRAKE, Mr. GOODLATTE, Mr. ENGLISH of Pennsylvania, Mr. CONAWAY, Ms. GINNY BROWN-WAITE of Florida, Mr. POE, and Mr. SOUDER) 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

A BILL

To expedite the construction of new refining capacity on closed military installations in the United States, 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. DEFINITIONS.**

4 For purposes of this Act—

5 (1) the term “base closure law” means the De-
6 fense Base Closure and Realignment Act of 1990
7 (part A of title XXIX of Public Law 101–510; 10

1 U.S.C. 2687 note) and title II of the Defense Au-
2 thORIZATION Amendments and Base Closure and Re-
3 alignment Act (Public Law 100–526; 10 U.S.C.
4 2687 note);

5 (2) the term “closed military installation”
6 means a military installation closed or approved for
7 closure pursuant to a base closure law;

8 (3) the term “designated refinery” means a re-
9 finery designated under section 2(a);

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

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

16 (B) includes any permits, special use au-
17 thorizations, certifications, opinions, or other
18 approvals required under Federal law with re-
19 spect to siting, construction, expansion, or oper-
20 ation of a refinery;

21 (5) the term “refinery” means—

22 (A) a facility designed and operated to re-
23 ceive, load, unload, store, transport, process,
24 and refine crude oil by any chemical or physical
25 process, including distillation, fluid catalytic

1 cracking, hydrocracking, coking, alkylation,
2 etherification, polymerization, catalytic reform-
3 ing, isomerization, hydrotreating, blending, and
4 any combination thereof, in order to produce
5 gasoline or other fuel; or

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

12 (6) the term “Secretary” means the Secretary
13 of Energy; and

14 (7) the term “State” means a State, the Dis-
15 trict of Columbia, the Commonwealth of Puerto
16 Rico, and any other territory or possession of the
17 United States.

18 **SEC. 2. STATE PARTICIPATION AND PRESIDENTIAL DES-**
19 **IGNATION.**

20 (a) DESIGNATION REQUIREMENT.—Not later than
21 90 days after the date of enactment of this Act, the Presi-
22 dent shall designate no less than 3 closed military installa-
23 tions, or portions thereof, subject to subsection (c)(2), that
24 are appropriate for the purposes of siting a refinery.

1 (b) ANALYSIS OF REFINERY SITES.—In considering
2 any site for possible designation under subsection (a), the
3 President shall conduct an analysis of—

4 (1) the availability of crude oil supplies to the
5 site, including supplies from domestic production of
6 shale oil and tar sands and other strategic uncon-
7 ventional fuels;

8 (2) the distribution of the Nation’s refined pe-
9 troleum product demand;

10 (3) whether such site is in close proximity to
11 substantial pipeline infrastructure, including both
12 crude oil and refined petroleum product pipelines,
13 and potential infrastructure feasibility;

14 (4) the need to diversify the geographical loca-
15 tion of the domestic refining capacity;

16 (5) the effect that increased refined petroleum
17 products from a refinery on that site may have on
18 the price and supply of gasoline to consumers;

19 (6) the impact of locating a refinery on the site
20 on the readiness and operations of the Armed
21 Forces; and

22 (7) such other factors as the President con-
23 siders appropriate.

24 (c) SALE OR DISPOSAL.—

1 (1) DESIGNATION.—Except as provided in
2 paragraph (2), until the expiration of 2 years after
3 the date of enactment of this Act, the Federal Gov-
4 ernment shall not sell or otherwise dispose of the
5 military installations designated pursuant to sub-
6 section (a).

7 (2) GOVERNOR’S OBJECTION.—No site may be
8 used for a refinery under this Act if, not later than
9 60 days after designation of the site under sub-
10 section (a), the Governor of the State in which the
11 site is located transmits to the President an objec-
12 tion to the designation, unless, not later than 60
13 days after the President receives such objection, the
14 Congress has by law overridden the objection.

15 (d) REDEVELOPMENT AUTHORITY.—With respect to
16 a closed military installation, or portion thereof, des-
17 ignated by the President as a potentially suitable refinery
18 site pursuant to subsection (a)—

19 (1) the redevelopment authority for the installa-
20 tion, in preparing or revising the redevelopment plan
21 for the installation, shall consider the feasibility and
22 practicability of siting a refinery on the installation;
23 and

24 (2) the Secretary of Defense, in managing and
25 disposing of real property at the installation pursu-

1 ant to the base closure law applicable to the installa-
2 tion, shall give substantial deference to the rec-
3 ommendations of the redevelopment authority, as
4 contained in the redevelopment plan for the installa-
5 tion, regarding the siting of a refinery on the instal-
6 lation.

7 **SEC. 3. PROCESS COORDINATION AND RULES OF PROCE-**
8 **DURE.**

9 (a) DESIGNATION AS LEAD AGENCY.—

10 (1) IN GENERAL.—The Department of Energy
11 shall act as the lead agency for the purposes of co-
12 ordinating all applicable Federal refinery authoriza-
13 tions and related environmental reviews with respect
14 to a designated refinery.

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

20 (b) SCHEDULE.—

21 (1) SECRETARY'S AUTHORITY TO SET SCHED-
22 ULE.—The Secretary shall establish a schedule for
23 all Federal refinery authorizations with respect to a
24 designated refinery. In establishing the schedule, the
25 Secretary shall—

1 (A) ensure expeditious completion of all
2 such proceedings; and

3 (B) accommodate the applicable schedules
4 established by Federal law for such proceedings.

5 (2) FAILURE TO MEET SCHEDULE.—If a Fed-
6 eral or State administrative agency or official does
7 not complete a proceeding for an approval that is re-
8 quired for a Federal refinery authorization in ac-
9 cordance with the schedule established by the Sec-
10 retary under this subsection, the applicant may pur-
11 sue remedies under subsection (d).

12 (c) CONSOLIDATED RECORD.—The Secretary shall,
13 with the cooperation of Federal and State administrative
14 agencies and officials, maintain a complete consolidated
15 record of all decisions made or actions taken by the Sec-
16 retary or by a Federal administrative agency or officer (or
17 State administrative agency or officer acting under dele-
18 gated Federal authority) with respect to any Federal re-
19 finery authorization. Such record shall be the record for
20 judicial review under subsection (d) of decisions made or
21 actions taken by Federal and State administrative agen-
22 cies and officials, except that, if the Court determines that
23 the record does not contain sufficient information, the
24 Court may remand the proceeding to the Secretary for fur-
25 ther development of the consolidated record.

1 (d) JUDICIAL REVIEW.—

2 (1) IN GENERAL.—The United States Court of
3 Appeals for the District of Columbia shall have
4 original and exclusive jurisdiction over any civil ac-
5 tion for the review of—

6 (A) an order or action, related to a Federal
7 refinery authorization, by a Federal or State
8 administrative agency or official; and

9 (B) an alleged failure to act by a Federal
10 or State administrative agency or official acting
11 pursuant to a Federal refinery authorization.

12 The failure of an agency or official to act on a Fed-
13 eral refinery authorization in accordance with the
14 Secretary's schedule established pursuant to sub-
15 section (b) shall be considered inconsistent with Fed-
16 eral law for the purposes of paragraph (2) of this
17 subsection.

18 (2) COURT ACTION.—If the Court finds that an
19 order or action described in paragraph (1)(A) is in-
20 consistent with the Federal law governing such Fed-
21 eral refinery authorization, or that a failure to act
22 as described in paragraph (1)(B) has occurred, and
23 the order, action, or failure to act would prevent the
24 siting, construction, expansion, or operation of the
25 designated refinery, the Court shall remand the pro-

1 ceeding to the agency or official to take appropriate
2 action consistent with the order of the Court. If the
3 Court remands the order, action, or failure to act to
4 the Federal or State administrative agency or offi-
5 cial, the Court shall set a reasonable schedule and
6 deadline for the agency or official to act on remand.

7 (3) SECRETARY'S ACTION.—For any civil action
8 brought under this subsection, the Secretary shall
9 promptly file with the Court the consolidated record
10 compiled by the Secretary pursuant to subsection
11 (c).

12 (4) EXPEDITED REVIEW.—The Court shall set
13 any civil action brought under this subsection for ex-
14 pedited consideration.

15 (5) ATTORNEY'S FEES.—In any action chal-
16 lenging a Federal refinery authorization that has
17 been granted, reasonable attorney's fees and other
18 expenses of litigation shall be awarded to the pre-
19 vailing party. This paragraph shall not apply to any
20 action seeking remedies for denial of a Federal refin-
21 ery authorization or failure to act on an application
22 for a Federal refinery authorization.

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