

AMENDMENT TO THE COMMITTEE PRINT

OFFERED BY Mr. HALL & Mr. BARTON

Bio Refineries

At the end of the bill, add the following:

1 **SEC. 12. DEFINITIONS.**

2 For purposes of this section and sections 13 through
3 17—

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

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

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

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

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

17 (B) includes any permits, licenses, special
18 use authorizations, certifications, opinions, or
19 other approvals required under Federal law

1 with respect to siting, construction, expansion,
2 or operation of a refinery;

3 (5) the term "Indian lands" means lands held
4 in trust for the benefit of an Indian tribe or indi-
5 vidual or held by an Indian tribe or individual sub-
6 ject to a restriction by the United States against
7 alienation;

8 (6) the term "Indian tribe" has the meaning
9 given the term in section 4 of the Indian Self-Deter-
10 mination and Education Assistance Act (25 U.S.C.
11 450b);

12 (7) the term "refinery" means a facility de-
13 signed and operated to receive, load, unload, store,
14 transport, process (including biochemical, photo-
15 chemical, and biotechnology processes), and refine
16 biomass in order to produce biofuel;

17 (8) the term "State" means a State, the Dis-
18 trict of Columbia, the Commonwealth of Puerto
19 Rico, and any other territory or possession of the
20 United States; and

21 (9) the term "tribal organization" has the
22 meaning given the term in section 4 of the Indian
23 Self-Determination and Education Assistance Act
24 (25 U.S.C. 450b).

1 **SEC. 13. STATE AND TRIBAL ORGANIZATION ASSISTANCE.**

2 (a) **FINANCIAL ASSISTANCE.**—At the request of a
3 governor of a State, or at the request of a tribal organiza-
4 tion, the Administrator is authorized to provide financial
5 assistance to that State or Indian tribe to facilitate the
6 hiring of additional personnel to assist the State or Indian
7 tribe with expertise in fields relevant to consideration of
8 Federal refinery authorizations.

9 (b) **OTHER ASSISTANCE.**—At the request of a gov-
10 ernor of a State, or at the request of a tribal organization,
11 a Federal agency responsible for a Federal refinery au-
12 thorization shall provide technical, legal, or other non-
13 financial assistance to that State or Indian tribe to facili-
14 tate its consideration of Federal refinery authorizations.

15 **SEC. 14. REFINERY PROCESS COORDINATION AND PROCE-**
16 **DURES.**

17 (a) **APPOINTMENT OF FEDERAL COORDINATOR.**—

18 (1) **IN GENERAL.**—The President shall appoint
19 a Federal coordinator to perform the responsibilities
20 assigned to the Federal coordinator under this sec-
21 tion.

22 (2) **OTHER AGENCIES.**—Each Federal and
23 State agency or official required to provide a Fed-
24 eral refinery authorization shall cooperate with the
25 Federal coordinator.

26 (b) **FEDERAL REFINERY AUTHORIZATIONS.**—

1 (1) MEETING PARTICIPANTS.—Not later than
2 30 days after receiving a notification from an appli-
3 cant that the applicant is seeking a Federal refinery
4 authorization pursuant to Federal law, the Federal
5 coordinator appointed under subsection (a) shall
6 convene a meeting of representatives from all Fed-
7 eral and State agencies responsible for a Federal re-
8 finery authorization with respect to the refinery. The
9 governor of a State shall identify each agency of
10 that State that is responsible for a Federal refinery
11 authorization with respect to that refinery.

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

1 Federal refinery authorizations, consistent with Fed-
2 eral law. In the event of conflict among Federal re-
3 finery authorization scheduling requirements, the re-
4 quirements of the Environmental Protection Agency
5 shall be given priority.

6 (B) Not later than 15 days after completing the
7 memorandum of agreement, the Federal coordinator
8 shall publish the memorandum of agreement in the
9 Federal Register.

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

15 (e) CONSOLIDATED RECORD.—The Federal coordi-
16 nator shall, with the cooperation of Federal and State ad-
17 ministrative agencies and officials, maintain a complete
18 consolidated record of all decisions made or actions taken
19 by the Federal coordinator or by a Federal administrative
20 agency or officer (or State administrative agency or officer
21 acting under delegated Federal authority) with respect to
22 any Federal refinery authorization. Such record shall be
23 the record for judicial review under subsection (d) of deci-
24 sions made or actions taken by Federal and State adminis-
25 trative agencies and officials, except that, if the Court de-

1 termines that the record does not contain sufficient infor-
2 mation, the Court may remand the proceeding to the Fed-
3 eral coordinator for further development of the consoli-
4 dated record.

5 (d) REMEDIES.—

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

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

21 (3) COURT ACTION.—If an action is brought
22 under paragraph (2), the Court shall review whether
23 the parties to the memorandum of agreement have
24 been acting in good faith, whether the applicant has
25 been cooperating fully with the agencies that are re-



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

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

20 (5) EXPEDITED REVIEW.—The Court shall set
21 any civil action brought under this subsection for ex-
22 pedited consideration.

23 (e) APPLICABILITY.—This section shall only apply to
24 a refinery sited or proposed to be sited or expanded or
25 proposed to be expanded—

1 (1) in a State whose governor has submitted a
2 request to the President for the application of the
3 process coordination and rules of procedure under
4 this section to the siting, construction, expansion, or
5 operation of any refinery in that State;

6 (2) on a closed military installation, or portion
7 thereof, made available for the siting of a refinery in
8 the manner provided by the base closure law applica-
9 ble to the installation; or

10 (3) on Indian lands if the relevant tribal organi-
11 zation has submitted a request to the President for
12 the application of the process coordination and rules
13 of procedure under this section to the siting, con-
14 struction, expansion, or operation of any refinery on
15 that Indian land.

16 **SEC. 15. DESIGNATION OF CLOSED MILITARY BASES.**

17 (a) **DESIGNATION REQUIREMENT.**—Not later than
18 90 days after the date of enactment of this Act, the Presi-
19 dent shall designate no less than 3 closed military installa-
20 tions, or portions thereof, as potentially suitable for the
21 construction of a refinery. At least 1 such site shall be
22 designated as potentially suitable for construction of a re-
23 finery to refine biomass in order to produce biofuel.

24 (b) **REDEVELOPMENT AUTHORITY.**—The redevelop-
25 ment authority for each installation designated under sub-

1 section (a), in preparing or revising the redevelopment
2 plan for the installation, shall consider the feasibility and
3 practicability of siting a refinery on the installation.

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

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

18 (1) the term “base closure law” means the De-
19 fense Base Closure and Realignment Act of 1990
20 (part A of title XXIX of Public Law 101–510; 10
21 U.S.C. 2687 note) and title II of the Defense Au-
22 thorization Amendments and Base Closure and Re-
23 alignment Act (Public Law 100–526; 10 U.S.C.
24 2687 note); and

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

4 **SEC. 16. SAVINGS CLAUSE.**

5 Nothing in sections 12 through 15 shall be construed
6 to affect the application of any environmental or other law,
7 or to prevent any party from bringing a cause of action
8 under any environmental or other law; including citizen
9 suits.

10 **SEC. 17. REFINERY REVITALIZATION REPEAL.**

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