

108TH CONGRESS
2D SESSION

H. R. 4517

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2004

Received; read twice and referred to the Committee on Environment and
Public Works

AN ACT

To provide incentives to increase refinery capacity in the
United States.

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 “United States Refinery
3 Revitalization Act of 2004”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) It serves the national interest to increase
7 refinery capacity for gasoline, heating oil, diesel fuel,
8 and jet fuel wherever located within the United
9 States, to bring more supply to the markets for use
10 by the American people. Forty-eight percent of the
11 crude oil in the United States is used for the pro-
12 duction of gasoline. Production and use of refined
13 petroleum products has a significant impact on
14 interstate commerce.

15 (2) United States demand for refined petroleum
16 products, such as gasoline and heating oil, currently
17 exceeds our domestic capacity to produce them. By
18 2025, United States gasoline consumption is pro-
19 jected to rise from 8,900,000 barrels per day to
20 13,300,000 barrels per day. Diesel fuel and home
21 heating oil are becoming larger components of an in-
22 creasing demand for refined petroleum supply. With
23 the increase in air travel, jet fuel consumption is
24 projected to be 760,000 barrels per day higher in
25 2025 than today.

1 (3) The refinery industry is operating at nearly
2 100 percent of capacity during the peak gasoline
3 consumption season and is producing record levels of
4 needed products at other times. The excess demand
5 has recently been met by increased imports. The
6 United States currently is importing 7 percent of its
7 refined petroleum products but few foreign refiners
8 can produce the clean fuels required in the United
9 States.

10 (4) Refiners are subject to significant environ-
11 mental and other regulations and face several new
12 Clean Air Act requirements over the next decade.
13 Today 153 refineries operate in the United States,
14 down from 324 in 1981. Almost 25 percent of our
15 Nation's refining capacity is controlled by foreign
16 ownership. Easily restored capacity at idled refin-
17 eries amounted to 539,000 barrels a day in 2002, or
18 3.3 percent of the total operating capacity. No new
19 refineries have been built in the United States since
20 1976. Most refineries are located on century-old
21 sites. New Clean Air Act requirements will benefit
22 the environment but will also require substantial
23 capital investment and additional government per-
24 mits.

1 (5) Refiners have met growing demand by in-
2 creasing the use of existing equipment and increas-
3 ing the efficiency and capacity of existing plants.
4 But refining capacity has begun to lag behind peak
5 summer demand.

6 (6) Heavy industry and manufacturing jobs
7 have closed or relocated due to barriers to invest-
8 ment, burdensome regulation, and high costs of op-
9 eration, among other reasons.

10 (7) More regulatory certainty for refinery own-
11 ers is needed to stimulate investment in increased
12 refinery capacity.

13 (8) Required procedures for Federal, State, and
14 local regulatory approvals need to be streamlined to
15 ensure that increased refinery capacity can be devel-
16 oped and operated in a safe, timely, and cost-effec-
17 tive manner.

18 **SEC. 3. DESIGNATION OF REFINERY REVITALIZATION**
19 **ZONES.**

20 The Secretary of Energy shall designate as a Refin-
21 ery Revitalization Zone any area—

22 (1) that—

23 (A) has experienced mass layoffs at manu-
24 facturing facilities, as determined by the Sec-
25 retary of Labor; or

1 (B) contains an idle refinery; and

2 (2) that has an unemployment rate of at least
3 20 percent above the national average, as set forth
4 by the Department of Labor, Bureau of Labor Sta-
5 tistics, at the time of designation as a Refinery Revi-
6 talization Zone.

7 **SEC. 4. COMPLIANCE WITH ALL ENVIRONMENTAL REGULA-**
8 **TIONS REQUIRED.**

9 The best available control technology, as appropriate,
10 shall be employed on all refineries located within a Refin-
11 ery Revitalization Zone to comply with all applicable Fed-
12 eral, State, and local environmental regulations. Nothing
13 in this Act shall be construed to waive or diminish in any
14 manner the applicability to any refinery facility located
15 within a Refinery Revitalization Zone existing or future
16 environmental regulations.

17 **SEC. 5. COORDINATION AND EXPEDITIOUS REVIEW OF PER-**
18 **MITTING PROCESS.**

19 (a) DEPARTMENT OF ENERGY LEAD AGENCY.—
20 Upon request of an applicant for a Federal authorization
21 related to the siting and operation of a refinery facility
22 within a Refinery Revitalization Zone, the Department of
23 Energy shall be the lead agency for coordinating all appli-
24 cable Federal authorizations and related environmental re-
25 views of the facility. To the maximum extent practicable

1 under applicable Federal law, the Secretary of Energy
2 shall coordinate this Federal authorization and review
3 process with any Indian Tribes and State and local agen-
4 cies responsible for conducting any separate permitting
5 and environmental reviews of the facility, to ensure timely
6 and efficient review and approval of any permit decisions.

7 (b) AUTHORITY TO SET DEADLINES.—As lead agen-
8 cy, the Department of Energy, in consultation with agen-
9 cies responsible for Federal authorizations and, as appro-
10 priate, with Indian Tribes and State or local agencies will-
11 ing to coordinate their own separate permitting and envi-
12 ronmental reviews with the Federal authorization and en-
13 vironmental reviews, shall establish prompt and binding
14 intermediate and ultimate deadlines for the review of, and
15 Federal authorization decisions relating to, the refinery fa-
16 cility. The Secretary of Energy shall ensure that once an
17 application has been submitted with such data as the Sec-
18 retary considers necessary, all permit decisions and related
19 environmental reviews under all applicable Federal laws
20 shall be completed within 6 months or, where cir-
21 cumstances require otherwise, as soon thereafter as is
22 practicable. The Secretary of Energy also shall provide an
23 expeditious preapplication mechanism for prospective ap-
24 plicants to confer with the agencies involved to have each
25 such agency determine and communicate to the prospec-

1 tive applicant within 60 days after the prospective appli-
2 cant submits a request for the information concerning—

3 (1) the likelihood of approval for a potential fa-
4 cility; and

5 (2) key issues of concern to the agencies and
6 public.

7 (c) CONSOLIDATED ENVIRONMENTAL REVIEW AND
8 RECORD OF DECISION.—As lead agency, the Department
9 of Energy, in consultation with the affected agencies, shall
10 prepare a single environmental review document, which
11 shall be used as the basis for all decisions on the proposed
12 project under Federal law. The document may be an envi-
13 ronmental assessment or environmental impact statement
14 under the National Environmental Policy Act of 1969 if
15 warranted, or such other form of analysis as may be war-
16 ranted, in the discretion of the Secretary. Such document
17 shall include consideration by the relevant agencies of any
18 applicable criteria or other matters as required under ap-
19 plicable laws.

20 (d) APPEALS.—In the event any agency has denied
21 a Federal authorization required for a refinery facility
22 within a Refinery Revitalization Zone, or has failed to act
23 by the deadline established by the Secretary pursuant to
24 this section for deciding whether to issue the authoriza-
25 tion, the applicant or any State in which the facility would

1 be located may file an appeal with the Secretary. Based
2 on the overall record and in consultation with the affected
3 agency, the Secretary may then either issue the necessary
4 authorization with appropriate conditions, or deny the ap-
5 plication. The Secretary shall issue a decision within 60
6 days after the filing of the appeal. In making a decision
7 under this subsection, the Secretary shall comply with ap-
8 plicable requirements of Federal law, including any re-
9 quirements of the Clean Air Act, the Federal Water Pollu-
10 tion Control Act, the Safe Drinking Water Act, the Com-
11 prehensive Environmental Response, Compensation, and
12 Liability Act of 1980, the Solid Waste Disposal Act, the
13 Toxic Substances Control Act, the National Historic Pres-
14 ervation Act, and the National Environmental Policy Act
15 of 1969. Any judicial appeal of the Secretary's decision
16 shall be to the United States Court of Appeals for the
17 District of Columbia.

18 (e) CONFORMING REGULATIONS AND MEMORANDA
19 OF UNDERSTANDING.—Not later than 6 months after the
20 date of enactment of this Act, the Secretary of Energy
21 shall issue any regulations necessary to implement this
22 section. Not later than 6 months after the date of enact-
23 ment of this Act, the Secretary and the heads of all Fed-
24 eral agencies with authority to issue Federal authoriza-
25 tions shall enter into Memoranda of Understanding to en-

1 sure the timely and coordinated review and permitting of
2 refinery facilities within a Refinery Revitalization Zone.
3 The head of each Federal agency with authority to issue
4 a Federal authorization shall designate a senior official re-
5 sponsible for, and dedicate sufficient other staff and re-
6 sources to ensure, full implementation of the Department
7 of Energy regulations and any Memoranda under this sub-
8 section. Interested Indian Tribes and State and local agen-
9 cies may enter such Memoranda of Understanding.

10 **SEC. 6. DEFINITIONS.**

11 For purposes of this Act—

12 (1) the term “Federal authorization” means
13 any authorization required under Federal law (in-
14 cluding the Clean Air Act, the Federal Water Pollu-
15 tion Control Act, the Safe Drinking Water Act, the
16 Comprehensive Environmental Response, Compensa-
17 tion, and Liability Act of 1980, the Solid Waste Dis-
18 posal Act, the Toxic Substances Control Act, the
19 National Historic Preservation Act, and the Na-
20 tional Environmental Policy Act of 1969) in order to
21 site, construct, upgrade, or operate a refinery facility
22 within a Refinery Revitalization Zone, including such
23 permits, special use authorizations, certifications,
24 opinions, or other approvals as may be required,
25 whether issued by a Federal, State or local agency;

1 (2) the term “idle refinery” means any intact
2 refinery facility that has not been in operation after
3 June 1, 2004; and

4 (3) the term “refinery facility” means any facil-
5 ity designed and operated to refine raw crude oil
6 into gasoline, heating oil, diesel fuel, or jet fuel by
7 any chemical or physical process, including distilla-
8 tion, fluid catalytic cracking, hydrocracking, coking,
9 alkylation, etherification, polymerization, catalytic
10 reforming, isomerization, hydrotreating, blending,
11 and any combination thereof.

Passed the House of Representatives June 16, 2004.

Attest:

JEFF TRANDAHL,

Clerk.