

111TH CONGRESS
1ST SESSION

H. R. 896

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

FEBRUARY 4, 2009

Mr. PITTS (for himself, Mr. BARTLETT, Mr. GINGREY of Georgia, Mr. PENCE, Mr. COLE, Mr. HERGER, Mr. LATTA, Mrs. BLACKBURN, Ms. FALLIN, Mr. BRADY of Texas, Mr. ISSA, Mr. BROWN of South Carolina, Ms. FOXX, Mr. MARCHANT, Mr. McKEON, Mr. AKIN, Mr. CONAWAY, Mr. WESTMORELAND, Mr. MILLER of Florida, Mr. RADANOVICH, Mr. LAMBORN, Mr. SOUDER, Mr. ROONEY, Mrs. MYRICK, Mrs. BACHMANN, Mr. ROGERS of Kentucky, Mr. BURTON of Indiana, Mr. LEE of New York, Mr. WILSON of South Carolina, Mr. BOOZMAN, Mr. BROUN of Georgia, Mr. SENSENBRENNER, Mr. WITTMAN, Mr. KLINE of Minnesota, and Mr. LINDER) 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—

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

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

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

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

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

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

24 (5) the term “refinery” means—

(A) a facility designed and operated to receive, load, unload, store, transport, process, and refine crude oil by any chemical or physical process, including distillation, fluid catalytic cracking, hydrocracking, coking, alkylation, etherification, polymerization, catalytic reforming, isomerization, hydrotreating, blending, and any combination thereof, in order to produce gasoline or other fuel; or

(B) a facility designed and operated to receive, load, unload, store, transport, process, and refine coal by any chemical or physical process, including liquefaction, in order to produce gasoline, diesel, or other liquid fuel as its primary output;

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

(7) the term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

SEC. 2. STATE PARTICIPATION AND PRESIDENTIAL DESIGNATION.

(a) DESIGNATION REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the Presi-

1 dent shall designate no less than 3 closed military installa-
2 tions, or portions thereof, subject to subsection (c)(2), that
3 are appropriate for the purposes of siting a refinery.

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

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

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

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

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

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

22 (6) the impact of locating a refinery on the site
23 on the readiness and operations of the Armed
24 Forces; and

1 (7) such other factors as the President con-
2 siders appropriate.

3 (c) SALE OR DISPOSAL.—

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

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

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

22 (1) the redevelopment authority for the installa-
23 tion, in preparing or revising the redevelopment plan
24 for the installation, shall consider the feasibility and

1 practicability of siting a refinery on the installation;
2 and

3 (2) the Secretary of Defense, in managing and
4 disposing of real property at the installation pursu-
5 ant to the base closure law applicable to the installa-
6 tion, shall give substantial deference to the rec-
7 ommendations of the redevelopment authority, as
8 contained in the redevelopment plan for the installa-
9 tion, regarding the siting of a refinery on the instal-
10 lation.

11 **SEC. 3. PROCESS COORDINATION AND RULES OF PROCE-**
12 **DURE.**

13 (a) DESIGNATION AS LEAD AGENCY.—

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

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

24 (b) SCHEDULE.—

1 (1) SECRETARY'S AUTHORITY TO SET SCHED-
2 ULE.—The Secretary shall establish a schedule for
3 all Federal refinery authorizations with respect to a
4 designated refinery. In establishing the schedule, the
5 Secretary shall—

6 (A) ensure expeditious completion of all
7 such proceedings; and

8 (B) accommodate the applicable schedules
9 established by Federal law for such proceedings.

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

17 (c) CONSOLIDATED RECORD.—The Secretary shall,
18 with the cooperation of Federal and State administrative
19 agencies and officials, maintain a complete consolidated
20 record of all decisions made or actions taken by the Sec-
21 retary or by a Federal administrative agency or officer (or
22 State administrative agency or officer acting under dele-
23 gated Federal authority) with respect to any Federal re-
24 finery authorization. Such record shall be the record for
25 judicial review under subsection (d) of decisions made or

1 actions taken by Federal and State administrative agen-
2 cies and officials, except that, if the Court determines that
3 the record does not contain sufficient information, the
4 Court may remand the proceeding to the Secretary for fur-
5 ther development of the consolidated record.

6 (d) JUDICIAL REVIEW.—

7 (1) IN GENERAL.—The United States Court of
8 Appeals for the District of Columbia shall have
9 original and exclusive jurisdiction over any civil ac-
10 tion for the review of—

11 (A) an order or action, related to a Federal
12 refinery authorization, by a Federal or State
13 administrative agency or official; and

14 (B) an alleged failure to act by a Federal
15 or State administrative agency or official acting
16 pursuant to a Federal refinery authorization.

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

23 (2) COURT ACTION.—If the Court finds that an
24 order or action described in paragraph (1)(A) is in-
25 consistent with the Federal law governing such Fed-

1 eral refinery authorization, or that a failure to act
2 as described in paragraph (1)(B) has occurred, and
3 the order, action, or failure to act would prevent the
4 siting, construction, expansion, or operation of the
5 designated refinery, the Court shall remand the pro-
6 ceeding to the agency or official to take appropriate
7 action consistent with the order of the Court. If the
8 Court remands the order, action, or failure to act to
9 the Federal or State administrative agency or offi-
10 cial, the Court shall set a reasonable schedule and
11 deadline for the agency or official to act on remand.

12 (3) SECRETARY'S ACTION.—For any civil action
13 brought under this subsection, the Secretary shall
14 promptly file with the Court the consolidated record
15 compiled by the Secretary pursuant to subsection
16 (c).

17 (4) EXPEDITED REVIEW.—The Court shall set
18 any civil action brought under this subsection for ex-
19 pedited consideration.

20 (5) ATTORNEY'S FEES.—In any action chal-
21 lenging a Federal refinery authorization that has
22 been granted, reasonable attorney's fees and other
23 expenses of litigation shall be awarded to the pre-
24 vailing party. This paragraph shall not apply to any
25 action seeking remedies for denial of a Federal refin-

- 1 ery authorization or failure to act on an application
- 2 for a Federal refinery authorization.

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