

AMENDMENT TO H.R. 3221**OFFERED BY MRS. WILSON OF NEW MEXICO**

In title IX, add at the end the following new subtitle:

1 **Subtitle G—Refinery Permit**
2 **Process Schedule**

3 **SEC. 9601. SHORT TITLE.**

4 This subtitle may be cited as the “Refinery Permit
5 Process Schedule Act”.

6 **SEC. 9602. DEFINITIONS.**

7 For purposes of this subtitle—

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

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

12 (3) the term “biomass” has the meaning given
13 that term in section 932(a)(1) of the Energy Policy
14 Act of 2005;

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

16 (A) means any authorization required
17 under Federal law, whether administered by a
18 Federal or State administrative agency or offi-

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

3 (B) includes any permits, licenses, special
4 use authorizations, certifications, opinions, or
5 other approvals required under Federal law
6 with respect to siting, construction, expansion,
7 or operation of a refinery;

8 (5) the term “Indian lands” means lands held
9 in trust for the benefit of an Indian tribe or indi-
10 vidual or held by an Indian tribe or individual sub-
11 ject to a restriction by the United States against
12 alienation;

13 (6) the term “Indian tribe” has the meaning
14 given the term in section 4 of the Indian Self-Deter-
15 mination and Education Assistance Act (25 U.S.C.
16 450b);

17 (7) the term “refinery” means—

18 (A) a facility designed and operated to re-
19 ceive, load, unload, store, transport, process,
20 and refine crude oil or oil originally derived
21 from crude oil by any chemical or physical proc-
22 ess, including distillation, fluid catalytic crack-
23 ing, hydrocracking, coking, alkylation,
24 etherification, polymerization, catalytic reform-
25 ing, isomerization, hydrotreating, blending, and

1 any combination thereof, in order to produce
2 gasoline, distillate, or lubricating base oil;

3 (B) a facility designed and operated to re-
4 ceive, load, unload, store, transport, process,
5 and refine coal by any chemical or physical
6 process, including liquefaction, in order to
7 produce gasoline or diesel as its primary out-
8 put; or

9 (C) a facility designed and operated to re-
10 ceive, load, unload, store, transport, process (in-
11 cluding biochemical, photochemical, and bio-
12 technology processes), and refine biomass in
13 order to produce biofuel;

14 (8) 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; and

18 (9) the term “tribal organization” has the
19 meaning given the term in section 4 of the Indian
20 Self-Determination and Education Assistance Act
21 (25 U.S.C. 450b).

22 **SEC. 9603. STATE AND TRIBAL ORGANIZATION ASSISTANCE.**

23 (a) FINANCIAL ASSISTANCE.—At the request of a
24 governor of a State, or at the request of a tribal organiza-
25 tion, the Administrator is authorized to provide financial

1 assistance to that State or Indian tribe to facilitate the
2 hiring of additional personnel to assist the State or Indian
3 tribe with expertise in fields relevant to consideration of
4 Federal refinery authorizations.

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

11 **SEC. 9604. REFINERY PROCESS COORDINATION AND PRO-**
12 **CEDURES.**

13 (a) APPOINTMENT OF FEDERAL COORDINATOR.—

14 (1) IN GENERAL.—The President shall appoint
15 a Federal coordinator to perform the responsibilities
16 assigned to the Federal coordinator under this sub-
17 title.

18 (2) OTHER AGENCIES.—Each Federal and
19 State agency or official required to provide a Fed-
20 eral refinery authorization shall cooperate with the
21 Federal coordinator.

22 (b) FEDERAL REFINERY AUTHORIZATIONS.—

23 (1) MEETING PARTICIPANTS.—Not later than
24 30 days after receiving a notification from an appli-
25 cant that the applicant is seeking a Federal refinery

1 authorization pursuant to Federal law, the Federal
2 coordinator appointed under subsection (a) shall
3 convene a meeting of representatives from all Fed-
4 eral and State agencies responsible for a Federal re-
5 finery authorization with respect to the refinery. The
6 governor of a State shall identify each agency of
7 that State that is responsible for a Federal refinery
8 authorization with respect to that refinery.

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

1 requirements of the Environmental Protection Agency
2 shall be given priority.

3 (B) Not later than 15 days after completing the
4 memorandum of agreement, the Federal coordinator
5 shall publish the memorandum of agreement in the
6 Federal Register.

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

12 (c) CONSOLIDATED RECORD.—The Federal coordi-
13 nator shall, with the cooperation of Federal and State ad-
14 ministrative agencies and officials, maintain a complete
15 consolidated record of all decisions made or actions taken
16 by the Federal coordinator or by a Federal administrative
17 agency or officer (or State administrative agency or officer
18 acting under delegated Federal authority) with respect to
19 any Federal refinery authorization. Such record shall be
20 the record for judicial review under subsection (d) of deci-
21 sions made or actions taken by Federal and State adminis-
22 trative agencies and officials, except that, if the Court de-
23 termines that the record does not contain sufficient infor-
24 mation, the Court may remand the proceeding to the Fed-

1 eral coordinator for further development of the consoli-
2 dated record.

3 (d) REMEDIES.—

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

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

19 (3) COURT ACTION.—If an action is brought
20 under paragraph (2), the Court shall review whether
21 the parties to the memorandum of agreement have
22 been acting in good faith, whether the applicant has
23 been cooperating fully with the agencies that are re-
24 sponsible for issuing a Federal refinery authoriza-
25 tion, and any other relevant materials in the consoli-

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

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

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

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

24 (1) in a State whose governor has submitted a
25 request to the President for the application of the

1 process coordination and rules of procedure under
2 this section to the siting, construction, expansion, or
3 operation of any refinery in that State;

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

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

14 **SEC. 9605. DESIGNATION OF CLOSED MILITARY BASES.**

15 (a) **DESIGNATION REQUIREMENT.**—Not later than
16 90 days after the date of enactment of this Act, the Presi-
17 dent shall designate no less than 3 closed military installa-
18 tions, or portions thereof, as potentially suitable for the
19 construction of a refinery. At least 1 such site shall be
20 designated as potentially suitable for construction of a re-
21 finery to refine biomass in order to produce biofuel.

22 (b) **REDEVELOPMENT AUTHORITY.**—The redevelop-
23 ment authority for each installation designated under sub-
24 section (a), in preparing or revising the redevelopment

1 plan for the installation, shall consider the feasibility and
2 practicability of siting a refinery on the installation.

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

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

17 (1) the term “base closure law” means the De-
18 fense Base Closure and Realignment Act of 1990
19 (part A of title XXIX of Public Law 101–510; 10
20 U.S.C. 2687 note) and title II of the Defense Au-
21 thorization Amendments and Base Closure and Re-
22 alignment Act (Public Law 100–526; 10 U.S.C.
23 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. 9606. SAVINGS CLAUSE.**

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

9 **SEC. 9607. REFINERY REVITALIZATION REPEAL.**

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

Amend the table of contents accordingly.