



**Legislative Bulletin.....June 7, 2006**

**Contents:**

H.R. 5254 — Refinery Permit Process Schedule Act

**Summary of the Bills Under Consideration Today:**

**Total Number of New Government Programs:** 0

**Total Cost of Discretionary Authorizations:** unknown

**Effect on Revenue:** \$0

**Total Change in Mandatory Spending:** \$0

**Total New State & Local Government Mandates:** Several

**Total New Private Sector Mandates:** 0

**Number of Bills Without Committee Reports:** 1

**Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority:** 0

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**H.R. 5254 —Refinery Permit Process Schedule Act (Rep. Bass, R-NH)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, June 7<sup>th</sup>, subject to a closed rule (H.Res. 842). On May 3, 2006, the identical bill failed under a motion to suspend the rules and pass the bill because it did not receive the required two-thirds vote: <http://clerk.house.gov/evs/2006/roll116.xml> (237-188).

**Summary:** Highlights of this legislation are as follows:

- Creates a new federally-directed implementation and assistance process for the consideration of refinery authorizations required by federal law, available to states whose governors request federal assistance (technical, legal, or other). Refinery authorizations not involving federal law are not covered by the legislation.
- Defines “federal refinery authorizations” to include any permits, licenses, special-use authorizations, certifications, opinions, or other approvals required under

federal law regarding the siting, constriction, expansion, or operation of an oil, gas, or biofuel refinery.

- Directs the President to appoint a federal coordinator to manage the multi-agency refinery permitting process (across state and federal jurisdictions).
- Instructs the federal coordinator, within 30 days of receiving an application for a refinery authorization, to convene a meeting of representatives from all federal and state agencies responsible for a federal refinery authorization with respect to the specific refinery. At the meeting, the participants would have to create a memorandum of agreement (which would have to be published in the Federal Register), setting forth “the most expeditious coordinated schedule possible for completion of all Federal refinery authorizations with respect to the refinery.”
- Gives the Environmental Protection Agency (EPA) priority in scheduling, in the event of conflict among federal refinery authorization scheduling needs.
- Directs the federal coordinator to ensure that all parties to the memorandum of agreement (MoA) are working “in good faith” (not defined) to stay on schedule, and to maintain a complete consolidated record of all decisions made or actions taken by the coordinator or by an individual agency regarding any federal refinery authorization.
- Provides for civil actions alleging failure of adherence to the MoA to be brought exclusively in the U.S. district court for the district in which the proposed refinery is located. Only refinery applicants and parties to the MoA would have standing to bring such an action in court, and the court would have to consider such action under expedited consideration. Allows the court to establish a new schedule, if necessary, for the timely completion of the refinery authorizations.
- Directs the President (within 90 days of this bill’s enactment) to designate no less than three closed military installations (or portions thereof), as potentially suitable for the construction of a refinery, based on the “feasibility and practicability” of such siting. At least one of these sites would have to be potentially suitable for refining biomass to produce biofuel. Directs the Secretary of Defense to give “substantial deference” to these siting recommendations when disposing of real property at a close military installation; the Secretary would not have to accept the recommendations.
- Explicitly states that this Act should not be construed to affect the application of any environmental or other law, or to prevent legal actions thereunder.
- Repeals the section of the Energy Policy Act (Public Law 109-58) that allows the Environmental Protection Agency (EPA) to enter into refinery permitting cooperative agreements with states for streamlining the consideration of federal and state environmental permits for a new refinery.

**Additional Background:** This bill does not include nearly as many provisions aimed at streamlining refinery permitting as does the GAS Act (H.R. 3893) that the House passed on October 7, 2005, by a vote of 212-210: <http://clerk.house.gov/evs/2005/roll519.xml>,

but that has not yet been considered by the Senate. To read the RSC Legislative Bulletin on the GAS Act, visit this webpage:

<http://www.house.gov/pence/rsc/doc/LB%2010-07-05--GAS%20Act.pdf>.

The Energy & Commerce Committee has reported that no new crude oil refinery has been constructed in the United States since 1976, and there are now 148 operating refineries in the U.S. (concentrated mainly in the Gulf Region), down from 324 in 1981. As a result, refined product imports are rising. The Committee asserts that, “a key barrier to new plant development is the complexity of permitting and the regulatory uncertainty that comes with that.”

**Committee Action:** The bill was referred to the Energy & Commerce Committee on May 2, 2006, which did not take official action on it.

**Administration Position:** A formal Administration position on H.R. 5254 remains unavailable, however the Statement of Administration Policy (SAP) for H.R. 3893 last year indicated support in principle for “measures to simplify the refinery permitting process while maintaining environmental standards [and] to encourage refinery siting on former military sites....”: <http://www.whitehouse.gov/omb/legislative/sap/109-1/hr3893sap-h.pdf>.

**Cost to Taxpayers:** A CBO cost estimate remains unavailable.

**Does the Bill Expand the Size and Scope of the Federal Government?:** The bill would create a new federal coordinator for federal refinery authorization processing (though the coordinator could be an existing government official or entity).

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** The bill does contain some mandates on state governments for compliance with the federal coordinator and the refinery authorization process.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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