

108TH CONGRESS  
2D SESSION

# H. R. 4517

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

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IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2004

Mr. BARTON of Texas introduced the following bill; which was referred to the  
Committee on Energy and Commerce

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## A BILL

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,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “United States Refinery  
5       Revitalization Act of 2004”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds the following:

8               (1) It serves the national interest to increase  
9       refinery capacity for gasoline, heating oil, diesel fuel,  
10       and jet fuel wherever located within the United  
11       States, to bring more supply to the markets for use

1 by the American people. Forty-eight percent of the  
2 crude oil in the United States is used for the pro-  
3 duction of gasoline. Production and use of refined  
4 petroleum products has a significant impact on  
5 interstate commerce.

6 (2) United States demand for refined petroleum  
7 products, such as gasoline and heating oil, currently  
8 exceeds our domestic capacity to produce them. By  
9 2025, United States gasoline consumption is pro-  
10 jected to rise from 8,900,000 barrels per day to  
11 13,300,000 barrels per day. Diesel fuel and home  
12 heating oil are becoming larger components of an in-  
13 creasing demand for refined petroleum supply. With  
14 the increase in air travel, jet fuel consumption is  
15 projected to be 760,000 barrels per day higher in  
16 2025 than today.

17 (3) The refinery industry is operating at nearly  
18 100 percent of capacity during the peak gasoline  
19 consumption season and is producing record levels of  
20 needed products at other times. The excess demand  
21 has recently been met by increased imports. The  
22 United States currently is importing 7 percent of its  
23 refined petroleum products but few foreign refiners  
24 can produce the clean fuels required in the United  
25 States.

1           (4) Refiners are subject to significant environ-  
2           mental and other regulations and face several new  
3           Clean Air Act requirements over the next decade.  
4           Today 153 refineries operate in the United States,  
5           down from 324 in 1981. Almost 25 percent of our  
6           Nation's refining capacity is controlled by foreign  
7           ownership. Easily restored capacity at idled refin-  
8           eries amounted to 539,000 barrels a day in 2002, or  
9           3.3 percent of the total operating capacity. No new  
10          refineries have been built in the United States since  
11          1976. Most refineries are located on century-old  
12          sites. New Clean Air Act requirements will benefit  
13          the environment but will also require substantial  
14          capital investment and additional government per-  
15          mits.

16          (5) Refiners have met growing demand by in-  
17          creasing the use of existing equipment and increas-  
18          ing the efficiency and capacity of existing plants.  
19          But refining capacity has begun to lag behind peak  
20          summer demand.

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

1           (7) More regulatory certainty for refinery own-  
2           ers is needed to stimulate investment in increased  
3           refinery capacity.

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

9   **SEC. 3. DESIGNATION OF REFINERY REVITALIZATION**  
10                           **ZONES.**

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

13           (1) that—

14                   (A) has experienced mass layoffs at manu-  
15                   facturing facilities, as determined by the Sec-  
16                   retary of Labor; or

17                   (B) contains an idle refinery; and

18           (2) that has an unemployment rate of at least  
19           20 percent above the national average, as set forth  
20           by the Department of Labor, Bureau of Labor Sta-  
21           tistics, at the time of designation as a Refinery Revi-  
22           talization Zone.

1 **SEC. 4. COMPLIANCE WITH ALL ENVIRONMENTAL REGULA-**  
2 **TIONS REQUIRED.**

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

11 **SEC. 5. COORDINATION AND EXPEDITIOUS REVIEW OF PER-**  
12 **MITTING PROCESS.**

13 (a) DEPARTMENT OF ENERGY LEAD AGENCY.—  
14 Upon request of an applicant for a Federal authorization  
15 related to the siting and operation of a refinery facility  
16 within a Refinery Revitalization Zone, the Department of  
17 Energy shall be the lead agency for coordinating all appli-  
18 cable Federal authorizations and related environmental re-  
19 views of the facility. To the maximum extent practicable  
20 under applicable Federal law, the Secretary of Energy  
21 shall coordinate this Federal authorization and review  
22 process with any Indian Tribes and State and local agen-  
23 cies responsible for conducting any separate permitting  
24 and environmental reviews of the facility, to ensure timely  
25 and efficient review and approval of any permit decisions.

1           (b) AUTHORITY TO SET DEADLINES.—As lead agen-  
2 cy, the Department of Energy, in consultation with agen-  
3 cies responsible for Federal authorizations and, as appro-  
4 priate, with Indian Tribes and State or local agencies will-  
5 ing to coordinate their own separate permitting and envi-  
6 ronmental reviews with the Federal authorization and en-  
7 vironmental reviews, shall establish prompt and binding  
8 intermediate and ultimate deadlines for the review of, and  
9 Federal authorization decisions relating to, the refinery fa-  
10 cility. The Secretary of Energy shall ensure that once an  
11 application has been submitted with such data as the Sec-  
12 retary considers necessary, all permit decisions and related  
13 environmental reviews under all applicable Federal laws  
14 shall be completed within 6 months or, where cir-  
15 cumstances require otherwise, as soon thereafter as is  
16 practicable. The Secretary of Energy also shall provide an  
17 expeditious preapplication mechanism for prospective ap-  
18 plicants to confer with the agencies involved to have each  
19 such agency determine and communicate to the prospec-  
20 tive applicant within 60 days after the prospective appli-  
21 cant submits a request for the information concerning—

22           (1) the likelihood of approval for a potential fa-  
23 cility; and

24           (2) key issues of concern to the agencies and  
25 public.

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

14           (d) APPEALS.—In the event any agency has denied  
15 a Federal authorization required for a refinery facility  
16 within a Refinery Revitalization Zone, or has failed to act  
17 by the deadline established by the Secretary pursuant to  
18 this section for deciding whether to issue the authoriza-  
19 tion, the applicant or any State in which the facility would  
20 be located may file an appeal with the Secretary. Based  
21 on the overall record and in consultation with the affected  
22 agency, the Secretary may then either issue the necessary  
23 authorization with appropriate conditions, or deny the ap-  
24 plication. The Secretary shall issue a decision within 60  
25 days after the filing of the appeal. In making a decision

1 under this subsection, the Secretary shall comply with ap-  
2 plicable requirements of Federal law, including any re-  
3 quirements of the Clean Air Act, the Federal Water Pollu-  
4 tion Control Act, the Safe Drinking Water Act, the Com-  
5 prehensive Environmental Response, Compensation, and  
6 Liability Act of 1980, the Solid Waste Disposal Act, the  
7 Toxic Substances Control Act, the National Historic Pres-  
8 ervation Act, and the National Environmental Policy Act  
9 of 1969. Any judicial appeal of the Secretary's decision  
10 shall be to the United States Court of Appeals for the  
11 District of Columbia.

12 (e) CONFORMING REGULATIONS AND MEMORANDA  
13 OF UNDERSTANDING.—Not later than 6 months after the  
14 date of enactment of this Act, the Secretary of Energy  
15 shall issue any regulations necessary to implement this  
16 section. Not later than 6 months after the date of enact-  
17 ment of this Act, the Secretary and the heads of all Fed-  
18 eral agencies with authority to issue Federal authoriza-  
19 tions shall enter into Memoranda of Understanding to en-  
20 sure the timely and coordinated review and permitting of  
21 refinery facilities within a Refinery Revitalization Zone.  
22 The head of each Federal agency with authority to issue  
23 a Federal authorization shall designate a senior official re-  
24 sponsible for, and dedicate sufficient other staff and re-  
25 sources to ensure, full implementation of the Department

1 of Energy regulations and any Memoranda under this sub-  
2 section. Interested Indian Tribes and State and local agen-  
3 cies may enter such Memoranda of Understanding.

4 **SEC. 6. DEFINITIONS.**

5 For purposes of this Act—

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

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

23 (3) the term “refinery facility” means any facil-  
24 ity designed and operated to refine raw crude oil  
25 into gasoline, heating oil, diesel fuel, or jet fuel by

1 any chemical or physical process, including distilla-  
2 tion, fluid catalytic cracking, hydrocracking, coking,  
3 alkylation, etherification, polymerization, catalytic  
4 reforming, isomerization, hydrotreating, blending,  
5 and any combination thereof.

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