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ONE HUNDRED NINTH CONGRESS

U.S. House of Representatives  
Committee on Energy and Commerce  
Washington, DC 20515-6115

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February 16, 2006

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Mr. S. William Becker  
Executive Director  
State and Territorial Air Pollution Program Administrators/  
Association of Local Air Pollution Control Officials  
444 North Capitol Street, N.W.  
Washington, D.C. 20001

Dear Mr. Becker:

In connection with legislative activity related to refining capacity in the United States, I am requesting information from your State members regarding the processing of new source review (NSR) air permits for new refineries and for expansions at existing refineries. Hurricane Katrina focused the Nation's attention on refining capacity in the United States and its relationship to high gas prices. Some have alleged that delays in obtaining environmental permits, especially new source review, are to blame for the oil companies' decisions not to build new refineries or further expand existing refineries. Previous Congressional testimony from then U.S. Environmental Protection Agency (EPA) Administrator Carol Browner regarding permit process times, however, does not support that allegation. In response to recent requests, EPA has refused to update the information previously provided by Ms. Browner; instead it has responded that States are charged with processing new source review permits.

It is important that Congress have updated information regarding new source review permits and refineries. Ideally this information would have been collected before the United States House of Representatives, by a very slim majority, passed H.R. 3893, the "Gasoline for America's Security Act of 2005" on October 7, 2005. Unfortunately, the normal legislative process of fact-finding and then legislating was not followed. Provisions in that bill would designate the Department of Energy as the lead agency for establishing the schedule for all Federal refinery authorizations, including new source review permits issued by State officials. Any challenges to State-issued new source review permit decisions would have to be brought (and defended against) in the United States Court of Appeals for the District of Columbia. H.R. 3893 is now pending in the Senate.

This letter is to request that you please collect from your member State air agencies and forward to me by Wednesday, March 22, 2006, the following information:

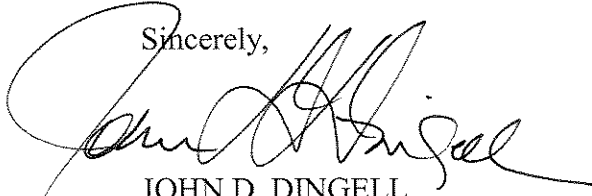
- (1) How many refineries are located in your State?
- (2) With respect to new refineries:
  - (a) For each of the last 10 years, how many major NSR permit applications for new refineries did the permitting agency receive?
  - (b) For each application submitted in the last five years, how long did it take for the permitting agency to take final action on the permit?
  - (c) How many major NSR permit applications are pending for new refineries? For each permit application, please give the dates on which the permit application was received, when the permitting agency had all the necessary information from the applicant to process the permit application, and when final action is expected.
- (3) With respect to expansion of capacity at existing refineries (including any project that increased refining capacity even if other changes were made at the same time that did not affect capacity):
  - (a) For each of the last 10 years, how many major NSR permit applications for expansions at refineries did the permitting agency receive?
  - (b) For each application submitted in the last five years, how long did it take for the permitting agency to take final action on the permit?
  - (c) How many major NSR permit applications are pending for refinery expansions? For each permit application, please give the dates on which the permit application was received, when the permitting agency had all the necessary information from the applicant to process the permit, and when final action is expected.
  - (d) For each of the last 10 years, how many refinery expansions in your State do you know of that did not require a major new source review?

In calculating how long any particular permit action took, please start at the time when the permitting agency had all of the applicant's required information to begin processing the permit.

Mr. S. William Becker  
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I appreciate the assistance that you and your members provide for this request. If you have any questions, please have your staff contact Lorie Schmidt, Minority Counsel with the Committee on Energy and Commerce at (202) 226-3400.

Sincerely,



JOHN D. DINGELL  
RANKING MEMBER

cc: The Honorable Joe Barton, Chairman  
Committee on Energy and Commerce

The Honorable Ralph M. Hall, Chairman  
Subcommittee on Energy and Air Quality

The Honorable Rick Boucher, Ranking Member  
Subcommittee on Energy and Air Quality