

1 **SENATE FLOOR VERSION**

2 March 27, 2014

3 ENGROSSED HOUSE
4 BILL NO. 2652

By: Denney of the House

5 and

6 Bingman of the Senate

7
8 An Act relating to environment and natural resources;
9 amending 27A O.S. 2011, Section 2-16-106, which
10 relates to the Oklahoma Refinery Revitalization Act;
11 replacing certain review board with the Secretary of
12 Energy and Environment; and providing an effective
13 date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 27A O.S. 2011, Section 2-16-106,
16 is amended to read as follows:

17 Section 2-16-106. A. Upon the written request of a prospective
18 applicant for authorization of a refinery facility in the State of
19 Oklahoma, the Department of Environmental Quality shall act as the
20 lead state agency for the purpose of coordinating all applicable
21 state and federal authorizations and environmental reviews of the
22 refining facility. To the maximum extent practicable under
23 applicable state and federal law, the Executive Director of the
24 Department of Environmental Quality shall coordinate the state and
federal authorization and review process with any federal, state,

1 tribal, and local agencies responsible for conducting separate
2 permitting and environmental reviews of the refining facility.

3 B. 1. The Executive Director, in coordination with the state
4 agencies and, as appropriate, with federal, tribal and local
5 agencies that are willing to coordinate their separate permitting
6 and environmental reviews with the state permitting and reviews
7 process, shall establish a schedule with prompt and binding
8 intermediate and ultimate deadlines for the review of, and state
9 authorization decisions relating to, refinery facility siting and
10 operation applications.

11 2. Prior to establishing the schedule, the Executive Director
12 shall provide an expeditious preapplication process that allows
13 applicants to confer with the agencies involved and to have each
14 agency communicate to the prospective applicant within sixty (60)
15 days:

- 16 a. the likelihood of approval for a potential refinery
17 facility, and
- 18 b. key issues of concern for the agencies and the local
19 community.

20 3. The Executive Director shall consider the preapplication
21 findings under paragraph 2 of this subsection when setting the
22 schedule and shall ensure that once an application has been
23 submitted with the necessary information, as determined by the
24 Executive Director, a draft permit shall be completed within six (6)

1 months or, where circumstances require otherwise, as soon as
2 thereafter practicable. An applicant may request that the
3 permitting process be stopped at anytime by agreement with the
4 Executive Director and Administrator.

5 4. If a state administrative agency does not complete a
6 refinery application authorization process in accordance with the
7 schedule established by the Executive Director pursuant to this
8 subsection, the applicant may pursue remedies set forth in
9 subsection F of this section.

10 C. 1. The RPCA shall address the coordination of all
11 applicable state and federal actions necessary for complying with
12 the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et
13 seq.), if applicable, and shall identify the entity responsible for
14 preparing any environmental impact statement or any other form of
15 environmental review that is required.

16 2. If the United States Environmental Protection Agency
17 determines an environmental impact statement is required, the
18 Department of Environmental Quality shall work with the Agency to
19 prepare a single environmental impact statement, which shall
20 consolidate the environmental reviews of all state and federal
21 agencies considering any aspect of the refinery facility covered by
22 the environmental impact statement.

23 D. Each state agency considering an aspect of the siting or
24 operation of a refinery facility in the State of Oklahoma shall

1 cooperate with the Department of Environmental Quality and comply
2 with the deadlines established by the Department in the preparation
3 of an environmental impact statement or such other form of
4 environmental review that is required.

5 E. The Department of Environmental Quality shall, with the
6 cooperation of state and federal administrative agencies and
7 officials, maintain a complete consolidated record of all decisions
8 made or actions taken by the Department, by a state administrative
9 agency or officer acting under delegated federal authority, or by a
10 federal administrative agency with respect to the siting or
11 operation of a refinery facility in the state. The record shall be
12 the exclusive record for any state administrative proceeding that is
13 an appeal or review of any refinery facility siting or operation
14 decision made or action taken.

15 F. If a state agency has denied state authorization required
16 for a refinery facility in the state, or has failed to act by a
17 deadline established by the Director pursuant to subsection B of
18 this section, the applicant may file an appeal with ~~a review panel~~
19 ~~comprised of the Oklahoma Secretary of the Environment or a~~
20 ~~designee, the Secretary of Energy or a designee, and the Secretary~~
21 ~~of Transportation or a designee~~ and Environment or the successor
22 cabinet secretary having authority over the Department of
23 Environmental Quality. Based on the record maintained pursuant to
24 subsection E of this section, and in consultation with the affected

1 state agency, the ~~review panel~~ Secretary may then either order the
2 immediate issuance of the necessary state authorization with
3 appropriate conditions, or deny the appeal. The ~~review panel~~
4 Secretary shall issue a decision within sixty (60) days after the
5 filing of the appeal. In making a decision under this subsection,
6 the ~~review panel~~ Secretary shall adhere to applicable requirements
7 of state and federal law, including each of the laws referred to in
8 subsection E of Section ~~5~~ 2-16-105 of this ~~act~~ title. Any judicial
9 appeal of the decision of the review panel shall be to an Oklahoma
10 court of competent jurisdiction as allowed under the Constitution of
11 the State of Oklahoma.

12 SECTION 2. This act shall become effective November 1, 2014.

13 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
14 March 27, 2014 - DO PASS
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