

119TH CONGRESS
1ST SESSION

S. _____

To exempt the Department of Defense from certain environmental protection activities.

IN THE SENATE OF THE UNITED STATES

Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To exempt the Department of Defense from certain environmental protection activities.

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 “Necessary Environ-
5 mental Exemptions for Defense Act”.

6 **SEC. 2. EXEMPTION OF ACTIVITIES OF DEPARTMENT OF**
7 **DEFENSE FROM CERTAIN ENVIRONMENTAL**
8 **PROTECTION LAWS.**

9 (a) SENSE OF CONGRESS.—It is the sense of Con-
10 gress that—

1 (1) the Department of Defense (in this section
2 referred to as the “Department”) must operate with
3 maximum agility and efficiency to ensure it is pre-
4 pared to deter and, if necessary, fight and win a
5 conflict with the Chinese Communist Party;

6 (2) the National Environmental Policy Act of
7 1969 (42 U.S.C. 4321 et seq.), the Endangered Spe-
8 cies Act of 1973 (16 U.S.C. 1531 et seq.), the Ma-
9 rine Mammal Protection Act of 1972 (16 U.S.C.
10 1361 et seq.), and the Federal Water Pollution Con-
11 trol Act (33 U.S.C. 1251 et seq.) frequently and un-
12 necessarily delay the readiness and operations of the
13 Armed Forces without substantial benefit to the en-
14 vironment or protected species; and

15 (3) national defense takes precedence over all
16 administrative processes that might otherwise hinder
17 the timely execution of defense-related activities.

18 (b) EXEMPTION.—The Department and any compo-
19 nent, contractor, or designee of the Department shall be
20 exempt from any requirement under the National Envi-
21 ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
22 the Endangered Species Act of 1973 (16 U.S.C. 1531 et
23 seq.), the Marine Mammal Protection Act of 1972 (16
24 U.S.C. 1361 et seq.), and the Federal Water Pollution
25 Control Act (33 U.S.C. 1251 et seq.) for all activities, op-

1 erations, permits, and projects conducted for the following
2 purposes, if the President or the Secretary of Defense (in
3 this section referred to as the “Secretary”) certifies the
4 activity is directly related to countering the threat of the
5 Chinese Community Party to the United States:

6 (1) Readiness, training, or operations of the
7 Armed Forces.

8 (2) Construction, maintenance, expansion, or
9 repair of facilities or infrastructure of the Depart-
10 ment.

11 (3) Deployment, development, testing, or pro-
12 duction of technologies, systems, or equipment of the
13 Department.

14 (4) Deployment, development, testing, or pro-
15 duction of commercial technologies, systems, or
16 equipment related to an agreement, grant, or con-
17 tract with the Department, the timely completion of
18 which directly contributes to a critical national secu-
19 rity interest of the United States.

20 (c) NO ALTERNATIVE COMPLIANCE OBLIGATIONS.—
21 Except for any environmental mitigations the Secretary
22 may determine are appropriate—

23 (1) no Federal, State, or local environmental re-
24 view process may be required as a substitute or re-

1 placement for compliance with the provisions of law
2 exempted under subsection (b); and

3 (2) no Federal, State, or local authority may re-
4 quire environmental evaluations for activities, oper-
5 ations, permits, or projects for which similar evalua-
6 tions are exempted under subsection (b).

7 (d) REVIEW OF ENVIRONMENTAL BEST PRAC-
8 TICES.—Not later than 5 years after the date of the enact-
9 ment of this Act, and not less frequently than every 5
10 years thereafter, the Secretary shall review best practices
11 for environmental mitigations and update the policy of the
12 Department as necessary to reflect changes in priorities
13 of the Department and advancements in environmental
14 practices.

15 (e) JUDICIAL PRECLUSION.—No court shall have ju-
16 risdiction to review, enjoin, or otherwise restrain any des-
17 ignation, activity, operation, permit, or project certifi-
18 cation carried out or any determination made by the De-
19 partment that is covered under subsection (b).

20 (f) RETROACTIVE APPLICATION.—This section shall
21 apply to any activity, operation, or project described in
22 subsection (b) that is ongoing as of the date of the enact-
23 ment of this Act and shall nullify any legal action or ad-
24 ministrative proceeding pending as of such date relating
25 to compliance with the National Environmental Policy Act

1 of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species
2 Act of 1973 (16 U.S.C. 1531 et seq.), the Marine Mammal
3 Protection Act of 1972 (16 U.S.C. 1361 et seq.), or the
4 Federal Water Pollution Control Act (33 U.S.C. 1251 et
5 seq.) in connection with such activity, operation, or
6 project.