

AMENDMENT TO RULES COMMITTEE PRINT 119–**8****OFFERED BY MR. HARDER OF CALIFORNIA**

1 At the end of subtitle B of title III, add the following:

2 **SEC. 3 ____ . EXEMPTION FROM CERTAIN REQUIREMENTS OF**
3 **NATIONAL ENVIRONMENTAL POLICY ACT OF**
4 **1969 FOR DEFENSE SUPPORT INFRASTRUC-**
5 **TURE.**

6 (a) CATEGORICAL EXCLUSION.—On and after the
7 date that is one year after the date of the enactment of
8 this Act, notwithstanding any other provision of law, de-
9 fense support infrastructure activities shall be categori-
10 cally excluded under section 106(a)(2) of the National En-
11 vironmental Policy Act of 1969 (42 U.S.C. 4336(a)(2)).
12 No environmental assessment, finding of no significant
13 impact, or environmental impact statement shall be re-
14 quired for such defense support infrastructure activity.

15 (b) PROCEDURES.—

16 (1) REQUIREMENT.—Not later than one year
17 after the date of the enactment of this Act, the Sec-
18 retary of Defense (acting through the Under Sec-
19 retary of Defense for Acquisition and Sustainment)
20 and the Secretary of Energy (acting through the

1 Under Secretary of Energy for Nuclear Security),
2 after conferring with the Chair of the Council on
3 Environmental Quality for technical guidance, shall
4 each—

5 (A) identify defense support infrastructure
6 activities that are categorically excluded from
7 the National Environmental Policy Act of 1969
8 (42 U.S.C. 4331 et seq.); and

9 (B) establish monitoring measures, if prac-
10 ticable and consistent with mission require-
11 ments, to minimize adverse environmental im-
12 pacts while ensuring the effectiveness of the
13 Armed Forces.

14 (2) SCOPE.—The Secretary of Defense and the
15 Secretary of Energy shall ensure that the categories
16 of defense support infrastructure activities identified
17 under paragraph (1)(A) encompass the full range of
18 defense support infrastructure activities.

19 (c) NOTICE TO CONGRESS.—

20 (1) IN GENERAL.—Not later than 30 days after
21 the identification of defense support infrastructure
22 activities under subparagraph (A) of subsection
23 (b)(1) and the establishment of monitoring measures
24 under subparagraph (B) of such subsection, the Sec-
25 retary of Defense and the Secretary of Energy shall

1 submit to the congressional defense committees a
2 notice of and rationale for the activities identified
3 and the measures established under such subsection.

4 (2) REVISIONS.—Not later than 30 days after
5 revising the activities identified or the measures es-
6 tablished under subsection (b)(1), the Secretary of
7 Defense and the Secretary of Energy shall submit to
8 the congressional defense committees a notice of
9 such revision and a statement of the rationale for
10 such revision.

11 (d) INTERIM EXCLUSION.—During the period begin-
12 ning on the date of the enactment of this Act and ending
13 on the date that is one year after such date of enactment,
14 any defense support infrastructure activity carried out or
15 authorized by the Secretary of Defense (acting through
16 the Under Secretary of Defense for Acquisition and
17 Sustainment) or the Secretary of Energy (acting through
18 the Under Secretary of Energy for Nuclear Security) shall
19 be categorically excluded under section 106(a)(2) of the
20 National Environmental Policy Act of 1969 (42 U.S.C.
21 4336(a)(2)).

22 (e) SAVINGS CLAUSE.—Nothing in this section shall
23 be construed to limit—

24 (1) the applicability of section 7 of the Endan-
25 gered Species Act of 1973 (16 U.S.C. 1536);

1 (2) the applicability of division A of subtitle III
2 of title 54, United States Code (formerly known as
3 the “National Historic Preservation Act”);

4 (3) the applicability of the Federal Water Pollu-
5 tion Control Act (33 U.S.C. 1251 et seq.) (com-
6 monly referred to as the “Clean Water Act”);

7 (4) the applicability of the Clean Air Act (42
8 U.S.C. 7401 et seq.);

9 (5) the applicability of the Migratory Bird
10 Treaty Act (16 U.S.C. 703 et seq.);

11 (6) the applicability of the Solid Waste Disposal
12 Act (42 U.S.C. 6901 et seq.) (commonly known as
13 the “Resource Conservation and Recovery Act of
14 1976”); or

15 (7) any requirement of Federal law expressly
16 applicable to the Department of Defense or the De-
17 partment of Energy unless such requirement is su-
18 perseded by this section.

19 (f) DEFINITIONS.—In this section:

20 (1) DEFENSE SUPPORT INFRASTRUCTURE AC-
21 TIVITY.—The term “defense support infrastructure
22 *activity*” means any activity pertaining to the fol-
23 lowing:

24 (A) Computing Infrastructure consisting of
25 the physical assets, facilities, and inter-

1 connected systems necessary for processing,
2 storing, and transmitting digital data, including
3 the construction, expansion, or significant modification of—
4

5 (i) data centers, including facilities
6 designed to house computer systems and
7 associated components, such as telecommunications and storage systems;
8

9 (ii) high-performance computing systems, including systems and networks capable of processing complex calculations
10 and large datasets at high speeds or intensities;
11
12
13

14 (iii) artificial intelligence and machine learning infrastructure, including specialized hardware such as graphical processing
15 units, central processing units, software, and network systems used for training or
16 running artificial intelligence or machine learning models; and
17
18
19
20

21 (iv) supporting infrastructure, including components critical for the operation of
22 the above, such as power supply systems, grid interties, cooling systems, specialized
23
24

1 networking hardware, backup generation,
2 and battery storage systems.

3 (B) Energy generation on land of the De-
4 partment of Defense or the Department of En-
5 ergy of the type that has never composed more
6 than 30 percent, rounded down, of the total
7 power generation mix of the United States in a
8 given year during the period beginning in 1951
9 and ending in 2023 according to historical
10 records of the Energy Information Administra-
11 tion.

12 (C) Any energy transmission or distribu-
13 tion asset, including radial lines or conductors
14 that—

15 (i) interconnect energy generation lo-
16 cated outside of an installation to a system
17 serving the installation;

18 (ii) follow an existing roadway, a dedi-
19 cated utility easement, or a right-of-way
20 over Federal land, except that not more
21 than 10 circuit-miles may deviate from
22 such corridors as necessary to avoid envi-
23 ronmentally sensitive areas;

24 (iii) have a total circuit length of—

1 (I) not more than 10 circuit-
2 miles if any portion crosses previously
3 undisturbed land; or

4 (II) not more than 50 circuit-
5 miles if the entire route remains with-
6 in the corridors described in clause
7 (ii); and

8 (iv) include no taps (such as lateral
9 connections to third-party facilities) other
10 than to facilities under the jurisdiction,
11 custody, or control of the Department of
12 Defense or the Department of Energy.

13 (D) Installation energy resilience projects,
14 including—

15 (i) any construction, modernization, or
16 replacement of energy generation capabili-
17 ties described in subparagraph (B); or

18 (ii) any construction of a radial line
19 described in subparagraph (C) necessary to
20 deliver the output of such generation to a
21 behind-the-meter system serving the instal-
22 lation.

23 (2) INSTALLATION.—The term “installation”
24 has the meaning given the term “military installa-

1 tion'' in section 2801(c) of title 10, United States
2 Code.

