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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Coastal Zone Management Act of 1972 to establish a conclusive presumption that a State concurs to certain activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. KILEY of California introduced the following bill; which was referred to
the Committee on _____

A BILL

To amend the Coastal Zone Management Act of 1972 to
establish a conclusive presumption that a State concurs
to certain activities, and for other purposes.

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. CONCLUSIVE PRESUMPTION FOR CERTAIN AC-**
4 **TIVITIES.**

5 Section 307 of the Coastal Zone Management Act of
6 1972 (16 U.S.C. 1456) is amended by adding at the end:

7 “(j) CONCLUSIVE PRESUMPTION FOR CERTAIN AC-
8 TIVITIES.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (3), with respect to a covered activity, a coast-
3 al state shall be conclusively presumed to concur
4 with—

5 “(A) a consistency determination provided
6 to the coastal state by a Federal agency under
7 subsection (c)(1)(C);

8 “(B) a determination or other finding of a
9 Federal agency under subsection (c)(2) that a
10 development project in the coastal zone of the
11 coastal state is consistent with the enforceable
12 policies of the approved state management pro-
13 gram of the coastal state;

14 “(C) a certification provided to the coastal
15 state by an applicant under subsection
16 (c)(3)(A) or person under subsection (c)(3)(B);
17 and

18 “(D) a determination or other finding of a
19 State or local government under subsection (d)
20 that an application for Federal assistance sub-
21 mitted by such State or local government is
22 consistent with the enforceable policies of the
23 approved state management program of the
24 coastal state.

1 “(2) LIMITATION ON OBJECTION.—An objection
2 or other challenge by a coastal state to an activity
3 subject to a conclusive presumption of concurrence
4 under paragraph (1) may not delay or otherwise pre-
5 vent the activity from proceeding.

6 “(3) REVIEW OF PRESUMPTIVE CONCUR-
7 RENCE.—

8 “(A) IN GENERAL.—Not later than 30
9 days after the Secretary receives a consistency
10 determination, certification, or other relevant
11 finding under this section, the Secretary may
12 issue a written determination with respect to an
13 activity subject to a conclusive presumption of
14 concurrence under paragraph (1) that nullifies
15 the conclusive presumption of concurrence if the
16 Secretary finds that the activity is not a cov-
17 ered activity.

18 “(B) PRESUMPTION OF FINALITY.—If the
19 Secretary does not issue a written determina-
20 tion under subparagraph (A) with respect to an
21 activity subject to a conclusive presumption of
22 concurrence under paragraph (1) within the
23 time period described in that subparagraph, the
24 conclusive presumption of concurrence shall be
25 final and binding.

1 “(4) DEFINITIONS.—In this subsection:

2 “(A) ACTIVITY WITH A SIGNIFICANT NA-
3 TIONAL OR REGIONAL ECONOMIC IMPACT.—The
4 term ‘activity with a significant national or re-
5 gional economic impact’ means an activity—

6 “(i) that is authorized or funded in
7 whole or in part by the Federal Govern-
8 ment; and

9 “(ii) that is carried out in—
10 “(I) an area with a low per cap-
11 ita income; or

12 “(II) an area with a high unem-
13 ployment rate.

14 “(B) AREA WITH A HIGH UNEMPLOYMENT
15 RATE.—The term ‘area with a high unemploy-
16 ment rate’ means an area where the unemploy-
17 ment rate, for the most recent 24-month period
18 for which data is available, is at least 1 percent-
19 age point higher than the national average un-
20 employment rate for such period, as determined
21 by the Secretary using the most recent data
22 available from—

23 “(i) the Bureau of Economic Analysis
24 of the Department of Commerce;

1 “(ii) the Bureau of Labor Statistics of
2 the Department of Labor;

3 “(iii) another Federal source the Sec-
4 retary determines appropriate; or

5 “(iv) if no recent Federal data is
6 available, data from the State agencies of
7 such area the Secretary determines appro-
8 priate.

9 “(C) AREA WITH A LOW PER CAPITA IN-
10 COME.—The term ‘area with low per capita in-
11 come’ means an area where the per capita in-
12 come is not more than 20 percent less than the
13 national average per capita income, as deter-
14 mined by the Secretary using the most recent
15 data available from—

16 “(i) the Bureau of Economic Analysis
17 of the Department of Commerce; or

18 “(ii) another Federal source the Sec-
19 retary determines appropriate.

20 “(D) COVERED ACTIVITY.—The term ‘cov-
21 ered activity’ means—

22 “(i) a national security activity;

23 “(ii) a critical infrastructure project;

24 “(iii) a disaster recovery or mitigation
25 activity; or

1 “(iv) an activity with a significant na-
2 tional or regional economic impact.

3 “(E) CRITICAL INFRASTRUCTURE.—The
4 term ‘critical infrastructure’ has the meaning
5 given the term in section 1016(e) of the USA
6 PATRIOT Act (42 U.S.C. 5195c(e)).

7 “(F) CRITICAL INFRASTRUCTURE
8 PROJECT.—The term ‘critical infrastructure
9 project’ means any project—

10 “(i) that is authorized or funded in
11 whole or in part by the Federal Govern-
12 ment; and

13 “(ii) that involves—

14 “(I) the planning, construction,
15 maintenance, or improvement of crit-
16 ical infrastructure;

17 “(II) a facility or an activity as-
18 sociated with any critical infrastruc-
19 ture sectors; or

20 “(III) a material or asset that is
21 essential to the operation, mainte-
22 nance, or development of critical in-
23 frastructure.

24 “(G) CRITICAL INFRASTRUCTURE SEC-
25 TORS.—The term ‘critical infrastructure sec-

1 tors’ has the meaning given the term in section
2 2001 of the Homeland Security Act of 2002 (6
3 U.S.C. 601).

4 “(H) DISASTER RECOVERY OR MITIGATION
5 ACTIVITY.—The term ‘disaster recovery or miti-
6 gation activity’ means an activity—

7 “(i) that is authorized or funded in
8 whole or in part by the Federal Govern-
9 ment; and

10 “(ii) that is carried out to prevent,
11 prepare for, respond to, recover from, or
12 mitigate the effects of—

13 “(I) an emergency;

14 “(II) a major disaster; or

15 “(III) any other incident or
16 threat that the Administrator of the
17 Federal Emergency Management
18 Agency determines poses a significant
19 risk to public health, safety, or prop-
20 erty.

21 “(I) EMERGENCY; MAJOR DISASTER.—The
22 terms ‘emergency’ and ‘major disaster’ have
23 such meanings given such terms in section 102
24 of the Robert T. Stafford Disaster Relief and
25 Emergency Assistance Act (42 U.S.C. 5122).

1 “(J) INTELLIGENCE COMMUNITY.—The
2 term ‘intelligence community’ has the meaning
3 given the term in section 3 of the National Se-
4 curity Act of 1947 (50 U.S.C. 3003).

5 “(K) NATIONAL SECURITY ACTIVITY.—The
6 term ‘national security activity’ means an activ-
7 ity that is carried out by or on behalf of—
8 “(i) the Department of Defense;
9 “(ii) the Department of Homeland Se-
10 curity; or
11 “(iii) the intelligence community.”.