

111TH CONGRESS  
1ST SESSION

# H. R. 996

To temporarily exempt certain public and private development projects from any requirement for a review, statement, or analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2009

Mr. NUNES (for himself and Mr. McCARTHY of California) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To temporarily exempt certain public and private development projects from any requirement for a review, statement, or analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), 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,*

1 **SECTION 1. PUBLIC, PRIVATE, AND AGRICULTURAL**  
2 **PROJECTS AND ACTIVITIES.**

3 (a) EXEMPTION FROM REVIEW.—During the 3-year  
4 period beginning on the date of enactment of this Act, no  
5 public or private development project that is to be carried  
6 out during that period (other than such a project for  
7 which a permit is required under section 404 of the Fed-  
8 eral Water Pollution Control Act (33 U.S.C. 1344) or that  
9 is to be carried out on wetland (as that term is defined  
10 in section 1201 of the Food Security Act of 1985 (16  
11 U.S.C. 3801)) shall be subject to any requirement for a  
12 review, statement, or analysis under the National Environ-  
13 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

14 (b) EMERGENCIES.—Section 10 of the Endangered  
15 Species Act of 1973 (16 U.S.C. 1539) is amended by add-  
16 ing at the end the following:

17 “(k) EMERGENCIES.—On the declaration of an emer-  
18 gency by the Governor of a State, the Secretary shall, for  
19 the duration of the emergency, temporarily exempt from  
20 the prohibition against taking, and the prohibition against  
21 the adverse modification of critical habitat, under this Act  
22 any action that is reasonably necessary to avoid or amelio-  
23 rate the impact of the emergency, including the operation  
24 of any water supply or flood control project by a Federal  
25 agency.”.

1 (c) JURISDICTION OVER COVERED ENERGY  
2 PROJECTS.—

3 (1) DEFINITION OF COVERED ENERGY  
4 PROJECT.—In this subsection, the term “covered en-  
5 ergy project” means any action or decision by a  
6 Federal official regarding—

7 (A) the leasing of Federal land (including  
8 submerged land) for the exploration, develop-  
9 ment, production, processing, or transmission of  
10 oil, natural gas, or any other source or form of  
11 energy, including actions and decisions regard-  
12 ing the selection or offering of Federal land for  
13 such leasing; or

14 (B) any action under such a lease.

15 (2) EXCLUSIVE JURISDICTION OVER CAUSES  
16 AND CLAIMS RELATING TO COVERED ENERGY  
17 PROJECTS.—Notwithstanding any other provision of  
18 law, the United States District Court for the Dis-  
19 trict of Columbia shall have exclusive jurisdiction to  
20 hear all causes and claims under this subsection or  
21 any other Act that arise from any covered energy  
22 project.

23 (3) TIME FOR FILING COMPLAINT.—

24 (A) IN GENERAL.—Each case or claim de-  
25 scribed in paragraph (2) shall be filed not later

1 than the end of the 60-day period beginning on  
2 the date of the action or decision by a Federal  
3 official that constitutes the covered energy  
4 project concerned.

5 (B) PROHIBITION.—Any cause or claim  
6 described in paragraph (2) that is not filed  
7 within the time period described in subpara-  
8 graph (A) shall be barred.

9 (4) DISTRICT COURT FOR THE DISTRICT OF CO-  
10 LUMBIA DEADLINE.—

11 (A) IN GENERAL.—Each proceeding that is  
12 subject to paragraph (2)—

13 (i) shall be resolved as expeditiously  
14 as practicable and in any event not more  
15 than 180 days after the cause or claim is  
16 filed; and

17 (ii) shall take precedence over all  
18 other pending matters before the district  
19 court.

20 (B) FAILURE TO COMPLY WITH DEAD-  
21 LINE.—If an interlocutory or final judgment,  
22 decree, or order has not been issued by the dis-  
23 trict court by the deadline required under this  
24 subsection, the cause or claim shall be dis-

1           missed with prejudice and all rights relating to  
2           the cause or claim shall be terminated.

3           (5) ABILITY TO SEEK APPELLATE REVIEW.—An  
4           interlocutory or final judgment, decree, or order of  
5           the district court under this subsection may be re-  
6           viewed by no other court except the Supreme Court.

7           (6) DEADLINE FOR APPEAL TO THE SUPREME  
8           COURT.—If a writ of certiorari has been granted by  
9           the Supreme Court pursuant to paragraph (5)—

10           (A) the interlocutory or final judgment, de-  
11           cree, or order of the district court shall be re-  
12           solved as expeditiously as practicable and in any  
13           event not more than 180 days after the inter-  
14           locutory or final judgment, decree, order of the  
15           district court is issued; and

16           (B) all such proceedings shall take prece-  
17           dence over all other matters then before the Su-  
18           preme Court.

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