

AMENDMENT TO RULES COMMITTEE PRINT 116-

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OFFERED BY MR. RICE OF SOUTH CAROLINA

Page 1220, after line 11, insert the following:

1 **TITLE VI—DISCOURAGING**
2 **FRIVOLOUS LAWSUITS**

3 **SECTION 26001. SHORT TITLE.**

4 This title may be cited as the “Discouraging Frivo-
5 lous Lawsuits Act”.

6 **SEC. 26002. CITIZEN SUITS.**

7 (a) COSTS OF LITIGATION.—Section 505(d) of the
8 Federal Water Pollution Control Act (33 U.S.C. 1365(d))
9 is amended to read as follows:

10 “(d) The court, in issuing any final order in any ac-
11 tion brought pursuant to this section, shall award costs
12 of litigation (including reasonable attorney and expert wit-
13 ness fees) to the prevailing party. For purposes of this
14 subsection, the prevailing party shall be considered to be
15 the party, if any, that prevails on more than half of the
16 claims at issue in the action. The court may, if a tem-
17 porary restraining order or preliminary injunction is
18 sought, require the filing of a bond or equivalent security
19 in accordance with the Federal Rules of Civil Procedure.”.

1 (b) RESTRICTION ON CERTAIN SETTLEMENTS.—Sec-
2 tion 505(c) of the Federal Water Pollution Control Act
3 (33 U.S.C. 1365(c)) is amended by adding at the end the
4 following:

5 “(4) RESTRICTION ON CERTAIN ORDERS AND
6 SETTLEMENTS.—A Federal court may not order, or
7 approve a settlement requiring, in an action brought
8 pursuant to this section, a governmental entity to
9 carry out, or otherwise provide for, compensatory
10 mitigation with respect to a permit applied for by,
11 or issued to, the entity under section 404 in excess
12 of the requirements for such mitigation under parts
13 320, 323, 325, and 332 of title 33, Code of Federal
14 Regulations, and part 230 of title 40, Code of Fed-
15 eral Regulations.”.

16 **SEC. 26003. ELIMINATING DUPLICATIVE OVERSIGHT.**

17 (a) IN GENERAL.—Section 404(c) of the Federal
18 Water Pollution Control Act (33 U.S.C. 1344(c)) is re-
19 pealed.

20 (b) CONFORMING AMENDMENTS.—Section 404(b) of
21 the Federal Water Pollution Control Act (33 U.S.C.
22 1344(b)) is amended—

23 (1) by striking “Subject to subsection (c) of
24 this section, each such disposal site” and inserting
25 “Each such disposal site”; and

1 (2) by striking “the Administrator, in conjunc-
2 tion with”.

3 **SEC. 26004. PROHIBITION ON EXCESS MITIGATION.**

4 Section 404 of the Federal Water Pollution Control
5 Act (33 U.S.C. 1344) is amended by adding at the end
6 the following:

7 “(u) No governmental entity may carry out, or other-
8 wise provide for, compensatory mitigation, with respect to
9 a permit issued to the entity under this section, in excess
10 of the requirements for such mitigation under parts 320,
11 323, 325, and 332 of title 33, Code of Federal Regula-
12 tions, and part 230 of title 40, Code of Federal Regula-
13 tions.”.

