

**AMENDMENT TO DIVISION C OF RULES COMMITTEE PRINT 117-12 (ENERGY AND WATER DEVELOPMENT APPROPRIATIONS DIVISION)
OFFERED BY MR. ROUZER OF NORTH CAROLINA**

At the end of division C (before the short title), insert the following:

1 SEC. _____. None of the funds made available by this
2 Act may be used by the Secretary of the Army or the Administrator of the Environmental Protection Agency to
3 issue a new rule to define the term “waters of the United
4 States”, as used in the Federal Water Pollution Control
5 Act (33 U.S.C. 1251 et seq.), unless—

7 (1) the Secretary and the Administrator take
8 into consideration any public comments received on
9 such rule and on any accompanying economic analyses or other documents and reports in support of
10 such rule;

12 (2) such rule reflects the advice and recommendations solicited and received from State and
13 local officials or their representative regional or national organizations, stakeholders, and other interested parties on how to define the term “waters of
14 the United States”, using formal consultation procedures.

1 esses and procedures that ensure transparency to
2 the public in the consultation processes (including
3 promptly making accessible to the public all commu-
4 nications, records, and other documents of any meet-
5 ings that are part of the consultation process);

6 (3) such rule specifically identifies, consistent
7 with applicable rulings of the United States Su-
8 preme Court, those waters covered under, and those
9 waters not covered under, the Federal Water Pollu-
10 tion Control Act;

11 (4) such rule recognizes, preserves, and protects
12 the primary rights and responsibilities of the States
13 to protect water quality under the Federal Water
14 Pollution Control Act, and to plan and control the
15 development and use of land and water resources in
16 the United States;

17 (5) such rule is developed in compliance with
18 the Federalism policymaking criteria and consulta-
19 tion requirements described in Executive Order
20 13132 (64 Fed. Reg. 43255), regardless of any de-
21 termination of whether the rule would have any sub-
22 stantial and direct effect on States, the relationship
23 between the Federal Government and the States, or
24 the distribution of power and responsibilities among
25 the various levels of government; and

1 (6) such rule is developed in compliance with
2 the regulatory flexibility and small business regu-
3 latory enforcement fairness requirements described
4 in sections 603, 604, and 609 of title 5, United
5 States Code, regardless of any determination of
6 whether the rule would have a significant impact on
7 a substantial number of small entities or the costs
8 of the proposed rule would be direct or indirect.

