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:

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

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

(2) such rule reflects the advice and recommendations solicited and received from State and local officials or their representative regional or national organizations, stakeholders, and other interested parties on how to define the term “waters of the United States”, using formal consultation proc-
esses and procedures that ensure transparency to
the public in the consultation processes (including
promptly making accessible to the public all commu-
ications, records, and other documents of any meet-
ings that are part of the consultation process);

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

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

(5) such rule is developed in compliance with
the Federalism policymaking criteria and consulta-
tion requirements described in Executive Order
13132 (64 Fed. Reg. 43255), regardless of any de-
termination of whether the rule would have any sub-
stantial and direct effect on States, the relationship
between the Federal Government and the States, or
the distribution of power and responsibilities among
the various levels of government; and
(6) such rule is developed in compliance with the regulatory flexibility and small business regulatory enforcement fairness requirements described in sections 603, 604, and 609 of title 5, United States Code, regardless of any determination of whether the rule would have a significant impact on a substantial number of small entities or the costs of the proposed rule would be direct or indirect.