

114TH CONGRESS  
1ST SESSION

# H. R. 4149

To amend the Federal Water Pollution Control Act with respect to citizen suits and the specification of disposal sites, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2015

Mr. RICE of South Carolina introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend the Federal Water Pollution Control Act with respect to citizen suits and the specification of disposal sites, 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. SHORT TITLE.**

4 This Act may be cited as the “Discouraging Frivolous  
5 Lawsuits Act”.

6 **SEC. 2. 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:

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

11       (b) RESTRICTION ON CERTAIN SETTLEMENTS.—Sec-  
12 tion 505(c) of the Federal Water Pollution Control Act  
13 (33 U.S.C.1365(c)) is amended by adding at the end the  
14 following:

15               “(4) RESTRICTION ON CERTAIN ORDERS AND  
16 SETTLEMENTS.—A Federal court may not order, or  
17 approve a settlement requiring, in an action brought  
18 pursuant to this section, a governmental entity to  
19 carry out, or otherwise provide for, compensatory  
20 mitigation with respect to a permit applied for by,  
21 or issued to, the entity under section 404 in excess  
22 of the requirements for such mitigation under parts  
23 320, 323, 325, and 332 of title 33, Code of Federal  
24 Regulations, and part 230 of title 40, Code of Fed-  
25 eral Regulations.”.

1 **SEC. 3. SPECIFICATION OF DISPOSAL SITES.**

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

5 (b) CONFORMING AMENDMENTS.—Section 404(b) of  
6 the Federal Water Pollution Control Act (33 U.S.C.  
7 1344(b)) is amended—

8 (1) by striking “Subject to subsection (c) of  
9 this section, each such disposal site” and inserting  
10 “Each such disposal site”; and

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

13 **SEC. 4. PROHIBITION ON EXCESS MITIGATION.**

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

17 “(u) No governmental entity may carry out, or other-  
18 wise provide for, compensatory mitigation, with respect to  
19 a permit issued to the entity under this section, in excess  
20 of the requirements for such mitigation under parts 320,  
21 323, 325, and 332 of title 33, Code of Federal Regula-  
22 tions, and part 230 of title 40, Code of Federal Regula-  
23 tions.”.

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