

116TH CONGRESS  
1ST SESSION

# H. R. 5341

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 6, 2019

Mr. RICE of South Carolina (for himself, Mr. AMODEI, Mr. BANKS, Mr. CALVERT, Mr. DUNCAN, Mr. FLORES, Mr. GIANFORTE, Mr. HARRIS, Mrs. HARTZLER, Mr. HOLLINGSWORTH, Mr. KELLY of Mississippi, Mr. MARCHANT, Mr. MEADOWS, Mr. MOONEY of West Virginia, Mr. NORMAN, Mr. OLSON, Mr. PALAZZO, Mr. PERRY, Mr. ROUZER, Mr. AUSTIN SCOTT of Georgia, Mr. STEWART, Mrs. WALORSKI, Mr. YOHO, Mr. YOUNG, Mr. KING of Iowa, Mr. BUDD, Mr. THOMPSON of Pennsylvania, Mr. BROOKS of Alabama, Mr. GIBBS, Mr. SMITH of Nebraska, and Mr. WEBER of Texas) 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”.

1 **SEC. 2. CITIZEN SUITS.**

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

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

15 (b) RESTRICTION ON CERTAIN SETTLEMENTS.—Sec-  
16 tion 505(c) of the Federal Water Pollution Control Act  
17 (33 U.S.C. 1365(c)) is amended by adding at the end the  
18 following:

19 “(4) RESTRICTION ON CERTAIN ORDERS AND  
20 SETTLEMENTS.—A Federal court may not order, or  
21 approve a settlement requiring, in an action brought  
22 pursuant to this section, a governmental entity to  
23 carry out, or otherwise provide for, compensatory  
24 mitigation with respect to a permit applied for by,  
25 or issued to, the entity under section 404 in excess  
26 of the requirements for such mitigation under parts

1       320, 323, 325, and 332 of title 33, Code of Federal  
2       Regulations, and part 230 of title 40, Code of Fed-  
3       eral Regulations.”.

4   **SEC. 3. ELIMINATING DUPLICATIVE OVERSIGHT.**

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

8       (b) CONFORMING AMENDMENTS.—Section 404(b) of  
9       the Federal Water Pollution Control Act (33 U.S.C.  
10      1344(b)) is amended—

11           (1) by striking “Subject to subsection (c) of  
12      this section, each such disposal site” and inserting  
13      “Each such disposal site”; and

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

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

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

20       “(u) No governmental entity may carry out, or other-  
21       wise provide for, compensatory mitigation, with respect to  
22       a permit issued to the entity under this section, in excess  
23       of the requirements for such mitigation under parts 320,  
24       323, 325, and 332 of title 33, Code of Federal Regula-

1 tions, and part 230 of title 40, Code of Federal Regula-  
2 tions.”.

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