AMENDMENT TO RULES COMMITTEE PRINT 116–57

OFFERED BY MR. FITZPATRICK OF PENNSYLVANIA

Add at the end of subtitle E of title XVII the following:

SEC. 1762. NATIONAL PRIMARY DRINKING WATER REGULATIONS FOR PFAS.

(a) NATIONAL DRINKING WATER REGULATIONS.—

Section 1412(b) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)) is amended by adding at the end the following:

“(16) PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES.—

“(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall, after notice and opportunity for public comment, promulgate a national primary drinking water regulation for perfluoroalkyl and polyfluoroalkyl substances, which shall, at a minimum, include standards for—
“(i) perfluorooctanoic acid (commonly referred to as ‘PFOA’); and

“(ii) perfluorooctane sulfonic acid (commonly referred to as ‘PFOS’).

“(B) ALTERNATIVE PROCEDURES.—

“(i) IN GENERAL.—Not later than 1 year after the validation by the Administrator of an equally effective quality control and testing procedure to ensure compliance with the national primary drinking water regulation promulgated under subparagraph (A) to measure the levels described in clause (ii) or other methods to detect and monitor perfluoroalkyl and polyfluoroalkyl substances in drinking water, the Administrator shall add the procedure or method as an alternative to the quality control and testing procedure described in such national primary drinking water regulation by publishing the procedure or method in the Federal Register in accordance with section 1401(1)(D).

“(ii) LEVELS DESCRIBED.—The levels referred to in clause (i) are—
“(I) the level of a perfluoroalkyl or polyfluoroalkyl substance;

“(II) the total levels of perfluoroalkyl and polyfluoroalkyl substances; and

“(III) the total levels of organic fluorine.

“(C) INCLUSIONS.—The Administrator may include a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances on—

“(i) the list of contaminants for consideration of regulation under paragraph (1)(B)(i), in accordance with such paragraph; and

“(ii) the list of unregulated contaminants to be monitored under section 1445(a)(2)(B)(i), in accordance with such section.

“(D) MONITORING.—When establishing monitoring requirements for public water systems as part of a national primary drinking water regulation under subparagraph (A) or subparagraph (G)(ii), the Administrator shall tailor the monitoring requirements for public
water systems that do not detect or are reliably and consistently below the maximum contaminant level (as defined in section 1418(b)(2)(B)) for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances subject to the national primary drinking water regulation.

“(E) HEALTH PROTECTION.—The national primary drinking water regulation promulgated under subparagraph (A) shall be protective of the health of subpopulations at greater risk, as described in section 1458.

“(F) HEALTH RISK REDUCTION AND COST ANALYSIS.—In meeting the requirements of paragraph (3)(C), the Administrator may rely on information available to the Administrator with respect to one or more specific perfluoroalkyl or polyfluoroalkyl substances to extrapolate reasoned conclusions regarding the health risks and effects of a class of perfluoroalkyl or polyfluoroalkyl substances of which the specific perfluoroalkyl or polyfluoroalkyl substances are a part.

“(G) REGULATION OF ADDITIONAL SUBSTANCES.—
“(i) DETERMINATION.—The Administrator shall make a determination under paragraph (1)(A), using the criteria described in clauses (i) through (iii) of that paragraph, whether to include a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances in the national primary drinking water regulation under subparagraph (A) not later than 18 months after the later of—

“(I) the date on which the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances is listed on the list of contaminants for consideration of regulation under paragraph (1)(B)(i); and

“(II) the date on which—

“(aa) the Administrator has received the results of monitoring under section 1445(a)(2)(B) for the perfluoroalkyl or polyfluoroalkyl substance or class
of perfluoroalkyl or polyfluoroalkyl substances; or

“(bb) the Administrator has received reliable water data or water monitoring surveys for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances from a Federal or State agency that the Administrator determines to be of a quality sufficient to make a determination under paragraph (1)(A).

“(ii) PRIMARY DRINKING WATER REGULATIONS.—

“(I) IN GENERAL.—For each perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances that the Administrator determines to regulate under clause (i), the Administrator—

“(aa) not later than 18 months after the date on which the Administrator makes the de-
termination, shall propose a national primary drinking water regulation for the perfluorooalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances; and

“(bb) may publish the proposed national primary drinking water regulation described in item (aa) concurrently with the publication of the determination to regulate the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances.

“(II) DEADLINE.—

“(aa) IN GENERAL.—Not later than 1 year after the date on which the Administrator publishes a proposed national primary drinking water regulation under clause (i)(I) and subject to item (bb), the Administrator shall take final action on the pro-
posed national primary drinking water regulation.

“(bb) EXTENSION.—The Administrator, on publication of notice in the Federal Register, may extend the deadline under item (aa) by not more than 6 months.

“(II) HEALTH ADVISORY.—

“(i) IN GENERAL.—Subject to clause (ii), the Administrator shall publish a health advisory under paragraph (1)(F) for a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances not subject to a national primary drinking water regulation not later than 1 year after the later of—

“(I) the date on which the Administrator finalizes a toxicity value for the perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances; and

“(II) the date on which the Administrator validates an effective qual-
ity control and testing procedure for
the perfluoroalkyl or polyfluoroalkyl
substance or class of perfluoroalkyl or
polyfluoroalkyl substances.

“(ii) WAIVER.—The Administrator
may waive the requirements of clause (i)
with respect to a perfluoroalkyl or
polyfluoroalkyl substance or class of
perfluoroalkyl and polyfluoroalkyl sub-
stances if the Administrator determines
that there is a substantial likelihood that
the perfluoroalkyl or polyfluoroalkyl sub-
stance or class of perfluoroalkyl or
polyfluoroalkyl substances will not occur in
drinking water with sufficient frequency to
justify the publication of a health advisory,
and publishes such determination, includ-
ing the information and analysis used, and
basis for, such determination, in the Fed-
eral Register.”.

(b) ENFORCEMENT.—Notwithstanding any other
provision of law, the Administrator of the Environmental
Protection Agency may not impose financial penalties for
the violation of a national primary drinking water regula-
tion (as defined in section 1401 of the Safe Drinking
Water Act (42 U.S.C. 300f)) with respect to a perfluoroalkyl or polyfluoroalkyl substance or class of perfluoroalkyl or polyfluoroalkyl substances for which a national primary drinking water regulation has been promulgated under section 1412(b)(16) of the Safe Drinking Water Act earlier than the date that is 5 years after the date on which the Administrator promulgates the national primary drinking water regulation.