To require the Administrator of the Environmental Protection Agency to designate per- and polyfluoroalkyl substances as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. SANDERS introduced the following bill; which was read twice and referred to the Committee on

A BILL

To require the Administrator of the Environmental Protection Agency to designate per- and polyfluoroalkyl substances as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Prevent Future American Sickness Act of 2020”.

SEC. 2. FINDINGS.

Congress finds that—
(1) PFAS have been found in the blood of 99 percent of individuals in the United States;

(2) PFAS chemicals have so far been confirmed in the groundwater or tap water of more than 1,400 communities;

(3) based on sampling data, scientists estimate that more than 100,000,000 individuals in the United States may be drinking water contaminated with PFAS;

(4) the Environmental Protection Agency was first notified about the health risks posed by PFAS in 1998, but has failed to set a drinking water standard or restrict ongoing releases in the air and water;

(5) existing treatment technologies can reduce the quantity of PFAS in tap water to levels below 2 parts per trillion;

(6) the Environmental Protection Agency has established lifetime health advisory levels for some PFAS chemicals at 70 parts per trillion;

(7) a June 2018 study by the Agency for Toxic Substances and Disease Registry of the Department of Health and Human Services found that PFAS chemicals pose a danger to human health at a level
far lower than the lifetime health advisory level established by the Environmental Protection Agency;

(8) PFAS chemical contamination sites appear with particularly high frequency in the States of New Jersey, Michigan, and California, with contamination levels as high as—

(A) 27,800 parts per trillion found in New Jersey;

(B) 1,200,000 parts per trillion found in Michigan; and

(C) 8,000,000 parts per trillion found in California;

(9) the Department of Defense estimates that PFAS cleanup on military bases will surpass the original cost estimate of the Department of Defense of $2,000,000,000;

(10) a study published in the International Journal of Hygiene and Environmental Health estimated the economic cost of PFAS contamination from increased numbers of low birth weight infants was $13,700,000,000 from 2003 through 2014;

(11) States such as Vermont, New Hampshire, New Jersey, and Michigan are leading the way in terms of setting robust drinking water standards for PFAS chemicals;
the State of Vermont has implemented the strictest standard for PFAS chemicals in the United States, with a maximum contaminant level of 20 parts per trillion for the sum of 5 PFAS chemicals; and

the States of Washington and Maine are leading the way in terms of taking action to limit PFAS chemicals in food packaging.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) FULLY FLUORINATED CARBON ATOM.—The term “fully fluorinated carbon atom” means a carbon atom on which all the hydrogen substituents have been replaced by fluorine.

(3) PFAS.—The term “PFAS” means perfluoroalkyl and polyfluoroalkyl substances that are man-made chemicals with at least 1 fully fluorinated carbon atom.

SEC. 4. DESIGNATION AS HAZARDOUS SUBSTANCES.

Not later than 1 year after the date of enactment of this Act, the Administrator shall designate all PFAS as hazardous substances under section 102(a) of the Com-
prehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9602(a)).

SEC. 5. WATER INFRASTRUCTURE.

(a) DRINKING WATER STATE REVOLVING FUND AUTHORIZED ACTIVITIES.—Section 1452(k)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–12(k)(1)) is amended by adding at the end the following:

“(E) Provide assistance in the form of a grant to an owner of a household water well that has been contaminated by perfluoroalkyl and polyfluoroalkyl substances (commonly referred to as ‘PFAS’) (as defined by the State in which the household well is located) for the purpose of purchasing and installing a household filtration system.”.

(b) PFAS GRANT PROGRAM.—Part E of the Safe Drinking Water Act (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

“SEC. 1459E. PFAS GRANT PROGRAM.

“(a) DEFINITIONS.—In this section:

“(1) FULLY FLUORINATED CARBON ATOM.—The term ‘fully fluorinated carbon atom’ means a carbon atom on which all the hydrogen substituents have been replaced by fluorine.
“(2) PFAS.—The term ‘PFAS’ means perfluoroalkyl and polyfluoroalkyl substances that are man-made chemicals with at least 1 fully fluorinated carbon atom.

“(b) GRANTS.—The Administrator shall carry out a grant program to provide grants to States and Indian tribes to assist the owners and operators of community water systems affected by contamination by PFAS.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this section, to remain available until expended.”.

(e) PRETREATMENT STANDARDS.—Section 307 of the Federal Water Pollution Control Act (33 U.S.C. 1317) is amended by adding at the end the following:

“(f) PFAS PRETREATMENT STANDARDS.—

“(1) DEFINITIONS.—In this subsection:

“(A) FULLY FLUORINATED CARBON ATOM.—The term ‘fully fluorinated carbon atom’ means a carbon atom on which all the hydrogen substituents have been replaced by fluorine.

“(B) PFAS.—The term ‘PFAS’ means perfluoroalkyl and polyfluoroalkyl substances...
that are man-made chemicals with at least 1
fully fluorinated carbon atom.

“(2) STANDARDS REQUIRED.—The Adminis-
trator shall establish pretreatment standards under
subsection (b) for PFAS.

“(3) GRANTS.—

“(A) ESTABLISHMENT.—The Adminis-
trator shall carry out a grant program to pro-
vide assistance to publicly owned treatment
works in implementing the pretreatment stand-
ards required under paragraph (2).

“(B) AUTHORIZATION OF APPROPRIA-
tions.—There are authorized to be appro-
priated such sums as are necessary to carry out
this paragraph, to remain available until ex-
pended.”.

(d) WATER INFRASTRUCTURE GRANTS.—

(1) GRANTS.—The Administrator shall carry
out a grant program to assist in the development of
water infrastructure.

(2) AUTHORIZATION OF APPROPRIATIONS.—
There are authorized to be appropriated such sums
as are necessary to carry out this subsection, to re-
main available until expended.
SEC. 6. PROHIBITION AGAINST FOOD CONTACT SUBSTANCES CONTAINING PERFLUROALKYL AND POLYFLUROALKYL SUBSTANCES.

Paragraph (6) of section 409(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(h)(6)) is amended—

(1) by striking “(6)” and inserting “(6)(A) DEFINITION.—”; and

(2) by adding at the end the following:

“(B) PERFLUORINATED COMPOUNDS.—

“(i) DEEMED UNSAFE.—Beginning on January 1, 2022, any PFAS used as a food contact substance is deemed to be unsafe for the purposes of this section and the application of subparagraph (2)(C) of section 402(a).

“(ii) DEFINITIONS.—In this subparagraph:

“(I) The term ‘PFAS’ means a perfluoroalkyl substance or a polyfluoroalkyl substance that is man-made with at least 1 fully fluorinated carbon atom.

“(II) The term ‘perfluoroalkyl substance’ means a man-made chemical of which all of the carbon atoms are fully fluorinated carbon atoms.

“(III) The term ‘polyfluoroalkyl substance’ means a man-made chemical containing a mix
of fully fluorinated carbon atoms, partially fluorinated carbon atoms, and nonfluorinated carbon atoms.”

SEC. 7. LISTING OF PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES AS HAZARDOUS AIR POLLUTANTS.

(a) Listing.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue a final rule adding, as a class, all PFAS to the list of hazardous air pollutants under section 112(b) of the Clean Air Act (42 U.S.C. 7412(b)).

(b) Sources Categories.—Not later than 1 year after the final rule is issued under subsection (a), the Administrator shall revise the list under section 112(c)(1) of the Clean Air Act (42 U.S.C. 7412(c)(1)) to include categories and subcategories of major sources and area sources of PFAS listed pursuant to that final rule.

SEC. 8. PROHIBITION ON WASTE INCINERATION OF PFAS.

Section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924) is amended by adding at the end the following:

“(z) PFAS Wastes.—

“(1) Definitions.—In this subsection:

“(A) Fully fluorinated carbon atom.—The term ‘fully fluorinated carbon

atom.”
atom’ means a carbon atom on which all the hydrogen substituents have been replaced by fluorine.

“(B) PFAS.—The term ‘PFAS’ means perfluoroalkyl and polyfluoroalkyl substances that are man-made chemicals with at least 1 fully fluorinated carbon atom.

“(2) FIREFIGHTING FOAM.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall promulgate regulations prohibiting the disposal by incineration of firefighting foam containing PFAS.

“(B) EFFECTIVE DATE.—The prohibition described in subparagraph (A) shall take effect not later than 270 days after the date of enactment of this subsection.

“(3) OTHER PFAS WASTES.—

“(A) IDENTIFICATION AND PROHIBITION.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall promulgate regulations—

“(i) identifying additional wastes containing PFAS for which a prohibition on
incineration may be necessary to protect human health and the environment; and

“(ii) prohibiting the disposal by incineration of wastes identified under clause (i) beginning not later than 540 days after the date of enactment of this subsection.

“(B) REVIEW AND REVISION.—The Administrator shall review and revise the list of wastes identified under subparagraph (A)(i) as necessary, but not less frequently than once every 4 years.

“(4) PENALTIES.—For purposes of section 3008(d), a waste subject to a prohibition under this subsection shall be considered a hazardous waste identified or listed under this subtitle.”.

SEC. 9. REPORT BY DEPARTMENT OF DEFENSE ON FLUORINATED AQUEOUS FILM FORMING FOAM.

Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on—

(1) the location and amount of the stockpiled fluorinated aqueous film forming foam in the possession of the Department of Defense that contains PFAS; and
(2) the amount of such foam that has been destroyed during the 10-year period ending of the date of the enactment of this Act and the method and location of destruction.