

116TH CONGRESS
2D SESSION

S. 3227

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

JANUARY 28, 2020

Mr. SANDERS (for himself, Mr. MERKLEY, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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.

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 “Prevent Future Amer-
5 ican Sickness Act of 2020”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) PFAS have been found in the blood of 99
2 percent of individuals in the United States;

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

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

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

15 (5) existing treatment technologies can reduce
16 the quantity of PFAS in tap water to levels below
17 2 parts per trillion;

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

21 (7) a June 2018 study by the Agency for Toxic
22 Substances and Disease Registry of the Department
23 of Health and Human Services found that PFAS
24 chemicals pose a danger to human health at a level

1 far lower than the lifetime health advisory level es-
2 tablished by the Environmental Protection Agency;

3 (8) PFAS chemical contamination sites appear
4 with particularly high frequency in the States of
5 New Jersey, Michigan, and California, with contami-
6 nation levels as high as—

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

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

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

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

17 (10) a study published in the International
18 Journal of Hygiene and Environmental Health esti-
19 mated the economic cost of PFAS contamination
20 from increased numbers of low birth weight infants
21 was \$13,700,000,000 from 2003 through 2014;

22 (11) States such as Vermont, New Hampshire,
23 New Jersey, and Michigan are leading the way in
24 terms of setting robust drinking water standards for
25 PFAS chemicals;

1 (12) the State of Vermont has implemented the
2 strictest standard for PFAS chemicals in the United
3 States, with a maximum contaminant level of 20
4 parts per trillion for the sum of 5 PFAS chemicals;
5 and

6 (13) the States of Washington and Maine are
7 leading the way in terms of taking action to limit
8 PFAS chemicals in food packaging.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) ADMINISTRATOR.—The term “Adminis-
12 trator” means the Administrator of the Environ-
13 mental Protection Agency.

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

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

22 **SEC. 4. DESIGNATION AS HAZARDOUS SUBSTANCES.**

23 Not later than 1 year after the date of enactment
24 of this Act, the Administrator shall designate all PFAS
25 as hazardous substances under section 102(a) of the Com-

1 prehensive Environmental Response, Compensation, and
 2 Liability Act of 1980 (42 U.S.C. 9602(a)).

3 **SEC. 5. WATER INFRASTRUCTURE.**

4 (a) DRINKING WATER STATE REVOLVING FUND AU-
 5 THORIZED ACTIVITIES.—Section 1452(k)(1) of the Safe
 6 Drinking Water Act (42 U.S.C. 300j–12(k)(1)) is amend-
 7 ed by adding at the end the following:

8 “(E) Provide assistance in the form of a
 9 grant to an owner of a household water well
 10 that has been contaminated by perfluoroalkyl
 11 and polyfluoroalkyl substances (commonly re-
 12 ferred to as ‘PFAS’) (as defined by the State
 13 in which the household well is located) for the
 14 purpose of purchasing and installing a house-
 15 hold filtration system.”.

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

19 **“SEC. 1459E. PFAS GRANT PROGRAM.**

20 “(a) DEFINITIONS.—In this section:

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

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

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

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

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

16 “(f) PFAS PRETREATMENT STANDARDS.—

17 “(1) DEFINITIONS.—In this subsection:

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

23 “(B) PFAS.—The term ‘PFAS’ means
24 perfluoroalkyl and polyfluoroalkyl substances

1 that are man-made chemicals with at least 1
2 fully fluorinated carbon atom.

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

6 “(3) GRANTS.—

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

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

17 (d) WATER INFRASTRUCTURE GRANTS.—

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

21 (2) AUTHORIZATION OF APPROPRIATIONS.—
22 There are authorized to be appropriated such sums
23 as are necessary to carry out this subsection, to re-
24 main available until expended.

1 **SEC. 6. PROHIBITION AGAINST FOOD CONTACT SUB-**
 2 **STANCES CONTAINING PERFLUOROALKYL**
 3 **AND POLYFLUOROALKYL SUBSTANCES.**

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

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

9 (2) by adding at the end the following:

10 “(B) PERFLUORINATED COMPOUNDS.—

11 “(i) DEEMED UNSAFE.—Beginning on January
 12 1, 2022, any PFAS used as a food contact sub-
 13 stance is deemed to be unsafe for the purposes of
 14 this section and the application of subparagraph
 15 (2)(C) of section 402(a).

16 “(ii) DEFINITIONS.—In this subparagraph:

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

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

25 “(III) The term ‘polyfluoroalkyl substance’
 26 means a man-made chemical containing a mix

1 of fully fluorinated carbon atoms, partially
 2 fluorinated carbon atoms, and nonfluorinated
 3 carbon atoms.”.

4 **SEC. 7. LISTING OF PERFLUOROALKYL AND**
 5 **POLYFLUOROALKYL SUBSTANCES AS HAZ-**
 6 **ARDOUS AIR POLLUTANTS.**

7 (a) LISTING.—Not later than 180 days after the date
 8 of enactment of this Act, the Administrator shall issue a
 9 final rule adding, as a class, all PFAS to the list of haz-
 10 ardous air pollutants under section 112(b) of the Clean
 11 Air Act (42 U.S.C. 7412(b)).

12 (b) SOURCES CATEGORIES.—Not later than 1 year
 13 after the final rule is issued under subsection (a), the Ad-
 14 ministrator shall revise the list under section 112(c)(1) of
 15 the Clean Air Act (42 U.S.C. 7412(c)(1)) to include cat-
 16 egories and subcategories of major sources and area
 17 sources of PFAS listed pursuant to that final rule.

18 **SEC. 8. PROHIBITION ON WASTE INCINERATION OF PFAS.**

19 Section 3004 of the Solid Waste Disposal Act (42
 20 U.S.C. 6924) is amended by adding at the end the fol-
 21 lowing:

22 “(z) PFAS WASTES.—

23 “(1) DEFINITIONS.—In this subsection:

24 “(A) FULLY FLUORINATED CARBON
 25 ATOM.—The term ‘fully fluorinated carbon

1 atom' means a carbon atom on which all the
2 hydrogen substituents have been replaced by
3 fluorine.

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

8 “(2) FIREFIGHTING FOAM.—

9 “(A) IN GENERAL.—Not later than 180
10 days after the date of enactment of this sub-
11 section, the Administrator shall promulgate reg-
12 ulations prohibiting the disposal by incineration
13 of firefighting foam containing PFAS.

14 “(B) EFFECTIVE DATE.—The prohibition
15 described in subparagraph (A) shall take effect
16 not later than 270 days after the date of enact-
17 ment of this subsection.

18 “(3) OTHER PFAS WASTES.—

19 “(A) IDENTIFICATION AND PROHIBI-
20 TION.—Not later than 1 year after the date of
21 enactment of this subsection, the Administrator
22 shall promulgate regulations—

23 “(i) identifying additional wastes con-
24 taining PFAS for which a prohibition on

1 incineration may be necessary to protect
2 human health and the environment; and

3 “(ii) prohibiting the disposal by incin-
4 eration of wastes identified under clause (i)
5 beginning not later than 540 days after
6 the date of enactment of this subsection.

7 “(B) REVIEW AND REVISION.—The Ad-
8 ministrator shall review and revise the list of
9 wastes identified under subparagraph (A)(i) as
10 necessary, but not less frequently than once
11 every 4 years.

12 “(4) PENALTIES.—For purposes of section
13 3008(d), a waste subject to a prohibition under this
14 subsection shall be considered a hazardous waste
15 identified or listed under this subtitle.”.

16 **SEC. 9. REPORT BY DEPARTMENT OF DEFENSE ON**
17 **FLUORINATED AQUEOUS FILM FORMING**
18 **FOAM.**

19 Not later than one year after the date of the enact-
20 ment of this Act, the Secretary of Defense shall submit
21 to Congress a report on—

22 (1) the location and amount of the stockpiled
23 fluorinated aqueous film forming foam in the posses-
24 sion of the Department of Defense that contains
25 PFAS; and

1 (2) the amount of such foam that has been de-
2 stroyed during the 10-year period ending of the date
3 of the enactment of this Act and the method and lo-
4 cation of destruction.

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