

personal representative of that defendant, the Government, or any victim of that defendant's crime may file or pursue an otherwise permissible direct appeal, petition for mandamus or a writ of certiorari, or an otherwise permissible motion under the Federal Rules of Criminal Procedure, to the extent that the appeal, petition, or motion raises an otherwise permissible claim to challenge or reinstate a verdict, plea of guilty or nolo contendere, sentence, or judgment that the appellant, petitioner, or movant shows by a preponderance of the evidence is, or will be, material in a pending or reasonably anticipated civil proceeding, including civil forfeiture proceedings.

“(C) COLLATERAL CONSEQUENCES.—

“(i) IN GENERAL.—Except as provided in subparagraphs (A) and (B), the Government may not restrict any Federal benefits or impose collateral consequences on the estate or a family member of a deceased defendant based solely on the conviction of a defendant who died before that defendant exhausted or waived the right to direct appeal unless, not later than 90 days after the death of that defendant, the Government gives notice to that estate or family member of the intent of the Government to take such action.

“(ii) PERSONAL REPRESENTATIVE.—If the Government gives notice under clause (i), the court shall appoint a personal representative for the deceased defendant that is the subject of that notice, if not otherwise appointed, under section (d)(2)(A).

“(iii) TOLLING.—If the Government gives notice under clause (i), any filing deadline that might otherwise apply against the defendant, the estate of the defendant, or a family member of the defendant shall be tolled until the date of the appointment of that defendant's personal representative under clause (ii).

“(3) BASIS.—In any appeal, petition, or motion under paragraph (2), the death of the defendant shall not be a basis for relief.

“(D) PROCEDURES REGARDING CONTINUING LITIGATION.—

“(1) IN GENERAL.—The standards and procedures for a permitted appeal, petition, motion, or other proceeding under subsection (c)(2) shall be the standards and procedures otherwise provided by law, except that the personal representative of the defendant shall be substituted for the defendant.

“(2) SPECIAL PROCEDURES.—If continuing litigation is initiated or could be initiated under subsection (c)(2), the following procedures shall apply:

“(A) NOTICE AND APPOINTMENT OF PERSONAL REPRESENTATIVE.—The district court before which the criminal case was filed (or the appellate court if the matter is pending on direct appeal) shall—

“(i) give notice to any victim of the convicted defendant under section 3771(a)(2), and to the personal representative of that defendant or, if there is none, the next of kin of that defendant; and

“(ii) appoint a personal representative for that defendant, if not otherwise appointed.

“(B) COUNSEL.—Counsel shall be appointed for the personal representative of a defendant convicted in a criminal case who dies if counsel would have been available to that defendant, or if the personal representative of that defendant requests counsel and otherwise qualifies for the appointment of counsel, under section 3006A.

“(C) TOLLING.—The court shall toll any applicable deadline for the filing of any motion, petition, or appeal during the period beginning on the date of the death of a defendant convicted in a criminal case and ending on the later of—

“(i) the date of the appointment of that defendant's personal representative; or

“(ii) where applicable, the date of the appointment of counsel for that personal representative.

“(D) RESTITUTION.—If restitution has not been fully collected on the date on which a defendant convicted in a criminal case dies—

“(i) any amount owed under a restitution order (whether issued before or after the death of that defendant) shall be collectible from any property from which the restitution could have been collected if that defendant had survived, regardless of whether that property is included in the estate of that defendant;

“(ii) any restitution protective order in effect on the date of the death of that defendant shall continue in effect unless modified by the court after hearing or pursuant to a motion by the personal representative of that defendant, the Government, or any victim of that defendant's crime; and

“(iii) upon motion by the Government or any victim of that defendant's crime, the court shall take any action necessary to preserve the availability of property for restitution under this section.

“(e) FORFEITURE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the death of an individual does not affect the Government's ability to seek, or to continue to pursue, civil forfeiture of property as authorized by law.

“(2) TOLLING OF LIMITATIONS FOR CIVIL FORFEITURE.—Notwithstanding the expiration of any civil forfeiture statute of limitations or any time limitation set forth in section 983(a) of this title, not later than the later of the time period otherwise authorized by law and 2 years after the date of the death of an individual against whom a criminal indictment alleging forfeiture is pending, the Government may commence civil forfeiture proceedings against any interest in any property alleged to be forfeitable in the indictment of that individual.

“(f) DEFINITIONS.—In this section—

“(1) the term ‘accepted’, relating to a plea of guilty or nolo contendere, means that a court has determined, under rule 11(b) of the Federal Rules of Criminal Procedure, that the plea is voluntary and supported by a factual basis, regardless of whether final acceptance of that plea may have been deferred pending review of a presentence report or otherwise;

“(2) the term ‘announced’, relating to a sentence, means that the sentence has been orally stated in open court;

“(3) the term ‘convicted’ refers to a defendant—

“(A) whose plea of guilty or nolo contendere has been accepted; or

“(B) against whom a verdict of guilty has been returned;

“(4) the term ‘direct appeal’ means an appeal filed, within the period provided by rule 4(b) of the Federal Rules of Appellate Procedure, from the entry of the judgment or order of restitution, including review by the Supreme Court of the United States; and

“(5) the term ‘returned’, relating to a verdict, means that the verdict has been orally stated in open court.”

(b) CONFORMING AMENDMENT.—The table of sections for chapter 227 of title 18, United States Code, is amended by adding at the end the following:

“3560. Effect of death of a defendant in Federal criminal proceedings.”

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to any criminal case or appeal pending on or after July 1, 2007.

SEC. 4. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person

or circumstance is held to be unconstitutional, the remainder of the provisions of this Act, the amendments made by this Act, and the application of such provisions or amendments to any person or circumstance shall not be affected.

By Mrs. BOXER (for herself, Mrs. FEINSTEIN, and Mr. LAUTENBERG):

S. 150. A bill to amend the safe Drinking Water Act to protect the health of pregnant women, fetuses, infants, and children by requiring a health advisory and drinking water standard for perchlorate; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am introducing legislation that would order EPA to promptly establish a health advisory and then a drinking water standard for perchlorate. I am pleased that the Senior Senator from California, Mrs. FEINSTEIN, and the Senior Senator from New Jersey, Mr. LAUTENBERG, have joined as original cosponsors of this measure.

This legislation will require the U.S. Environmental Protection Agency (EPA) to establish a standard for perchlorate contamination in drinking water supplies by December 31, 2007. EPA still has not committed to establishing a tap water standard for this widespread contaminant, decades after learning that perchlorate is a problem in our drinking water.

Perchlorate is a clear and present danger to California's and much of America's health. We cannot wait any longer to address this threat. EPA needs to get moving and protect our drinking water now.

Drinking water sources for more than 20 million Americans are contaminated with perchlorate. Perchlorate is the main ingredient in rocket fuel, which accounts for 90 percent of its use. Perchlorate is also used for ammunition, fireworks, highway safety flares, air bags, and fertilizers. It dissolves readily in many liquids, including water, and moves easily and quickly through the ground.

Perchlorate was first discovered in drinking water in 1957, and at the latest in the mid-1980s, EPA was aware that perchlorate contaminates drinking water. Since 1997, when California developed a new, more sensitive testing method that can detect perchlorate down to 4 parts per billion, perchlorate has been found in soil, groundwater, and surface water throughout the U.S.

According to a May 2005 report from the Government Accountability Office, perchlorate contamination has been detected in water and soil at almost 400 sites in the U.S., with levels ranging from 4 parts per billion to millions of parts per billion.

GAO also said that limited EPA data show that perchlorate has polluted 35 States and the District of Columbia, and is known to have contaminated 153 public water systems in 26 States. Those data likely underestimate total exposure, as illustrated by the finding

of the California Department of Health Services that perchlorate contamination has affected at least 276 drinking water wells sources and 77 drinking water systems in California alone.

The Food and Drug Administration and other scientific researchers have detected perchlorate in the United States food supply, including in lettuce, milk, cucumbers, tomatoes, carrots, cantaloupe, wheat, and spinach, and in human breast milk.

Perchlorate can harm human health, especially in pregnant women and children, by interfering with thyroid gland, which is needed to produce important hormones that help control human health and development. The thyroid helps to ensure children's proper mental and physical development, in addition to helping to control metabolism. Thyroid problems in expectant mothers or infants can affect babies, and result in delayed development and decreased learning capability.

The largest and most comprehensive study to date on the effects of low levels of perchlorate exposure in women was recently published by researchers from the Centers for Disease Control and Prevention (CDC). CDC found that there were significant changes in thyroid hormones in women with low iodine levels who were exposed to perchlorate. The CDC researchers also found that even small increases in low-level perchlorate exposure may affect the thyroid's production of hormones in iodine deficient women. About 36 percent of women in the U.S. have iodine levels equal to or below those of the women in the study.

EPA has not established a health advisory or national primary drinking water regulation for perchlorate. Instead, the agency has established a "Drinking Water Equivalent Level" (DWEL) of 24.5 parts per billion for this toxin. The agency's DWEL does not take into consideration all routes of exposure to perchlorate, and has been criticized by experts for failing to sufficiently consider the body weight, unique exposure, and vulnerabilities of certain pregnant women and fetuses, infants, and children. It is based primarily upon a small human study by Greer et al., which tested a small number of adults. The DWEL also does not take into account the new much larger studies from CDC, and other data indicating potential effects at lower perchlorate levels than previously found.

Alarming levels of perchlorate have been discovered in Lake Mead and the Colorado River, the drinking water source for millions of Southern Californians. Communities in the Inland Empire, San Gabriel Valley, Santa Clara Valley, and the Sacramento area are also grappling with perchlorate contamination.

My bill will ensure that EPA acts swiftly to address this threat to our health and welfare. I look forward to working with my colleagues to pass this important piece of legislation.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 150

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 "Protecting Pregnant Women and Children From Perchlorate Act of 2007".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) perchlorate—

(A) is a chemical used as the primary ingredient of solid rocket propellant;

(B) is also used in fireworks, road flares, and other applications.

(2) waste from the manufacture and improper disposal of chemicals containing perchlorate is increasingly being discovered in soil and water;

(3) according to the Government Accountability Office, perchlorate contamination has been detected in water and soil at almost 400 sites in the United States, with concentration levels ranging from 4 parts per billion to millions of parts per billion;

(4) the Government Accountability Office has determined that the Environmental Protection Agency does not centrally track or monitor perchlorate detections or the status of perchlorate cleanup, so a greater number of contaminated sites may already exist;

(5) according to the Government Accountability Office, limited Environmental Protection Agency data show that perchlorate has been found in 35 States and the District of Columbia and is known to have contaminated 153 public water systems in 26 States;

(6) those data are likely underestimates of total drinking water exposure, as illustrated by the finding of the California Department of Health Services that perchlorate contamination sites have affected approximately 276 drinking water sources and 77 drinking water systems in the State of California alone;

(7) Food and Drug Administration scientists and other scientific researchers have detected perchlorate in the United States food supply, including in lettuce, milk, cucumbers, tomatoes, carrots, cantaloupe, wheat, and spinach, and in human breast milk;

(8)(A) perchlorate can harm human health, especially in pregnant women and children, by interfering with uptake of iodide by the thyroid gland, which is necessary to produce important hormones that help control human health and development;

(B) in adults, the thyroid helps to regulate metabolism;

(C) in children, the thyroid helps to ensure proper mental and physical development; and

(D) impairment of thyroid function in expectant mothers or infants may result in effects including delayed development and decreased learning capability;

(9)(A) in October 2006, researchers from the Centers for Disease Control and Prevention published the largest, most comprehensive study to date on the effects of low levels of perchlorate exposure in women, finding that—

(i) significant changes existed in thyroid hormones in women with low iodine levels who were exposed to perchlorate; and

(ii) even low-level perchlorate exposure may affect the production of hormones by the thyroid in iodine-deficient women; and

(B) in the United States, about 36 percent of women have iodine levels equivalent to or

below the levels of the women in the study described in subparagraph (A); and

(10) the Environmental Protection Agency has not established a health advisory or national primary drinking water regulation for perchlorate, but instead established a "Drinking Water Equivalent Level" of 24.5 parts per billion for perchlorate, which—

(A) does not take into consideration all routes of exposure to perchlorate;

(B) has been criticized by experts as failing to sufficiently consider the body weight, unique exposure, and vulnerabilities of certain pregnant women and fetuses, infants, and children; and

(C) is based primarily on a small study and does not take into account new, larger studies of the Centers for Disease Control and Prevention or other data indicating potential effects at lower perchlorate levels than previously found.

(b) PURPOSES.—The purposes of this Act are—

(1) to require the Administrator of the Environmental Protection Agency to establish, by not later than 90 days after the date of enactment of this Act, a health advisory for perchlorate in drinking water that fully protects pregnant women, fetuses, infants, and children, taking into consideration body weight and exposure patterns and all routes of exposure to perchlorate; and

(2) to require the Administrator of the Environmental Protection Agency to establish promptly a national primary drinking water regulation for perchlorate that fully protects pregnant women, fetuses, infants, and children, taking into consideration body weight and exposure patterns and all routes of exposure to perchlorate.

SEC. 3. HEALTH ADVISORY AND NATIONAL PRIMARY DRINKING WATER REGULATION FOR PERCHLORATE.

Section 1412(b)(12) of the Safe Drinking Water Act (42 U.S.C. 300g-1(b)(12)) is amended by adding at the end the following:

“(C) PERCHLORATE.—

“(i) SCHEDULE, HEALTH ADVISORY, AND STANDARD.—Notwithstanding any other provision of this section, the Administrator shall publish a health advisory and promulgate a national primary drinking water regulation for perchlorate, in accordance with the schedule and provisions established by this subparagraph, that fully protect, with an adequate margin of safety, the health of vulnerable persons (including pregnant women, fetuses, infants, and children), taking into consideration body weight, exposure patterns, and all routes of exposure.

“(ii) HEALTH ADVISORY.—Not later than 90 days after the date of enactment of this subparagraph, the Administrator shall publish a health advisory for perchlorate in accordance with clause (i).

“(iii) PROPOSED REGULATIONS.—Not later than August 1, 2007, the Administrator shall propose a national primary drinking water regulation for perchlorate in accordance with clause (i).

“(iv) FINAL REGULATIONS.—Not later than December 31, 2007, after providing notice and an opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for perchlorate in accordance with clause (i).”.

By Mrs. BOXER:

S. 152. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a program to help States expand the educational system to include at least 1 year of early education preceding the year a child enters kindergarten; to the Committee on Health, Education, Labor, and Pensions.