

110TH CONGRESS
1ST SESSION

H. R. 1747

To amend the Safe Drinking Water Act to require a national primary drinking water regulation for perchlorate.

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2007

Ms. SOLIS (for herself, Mr. MCNERNEY, Mr. GEORGE MILLER of California, Mr. BLUMENAUER, Mr. PALLONE, Mr. ALLEN, Mr. INSLEE, Mr. WEINER, Mrs. CAPPES, Mr. HINCHEY, Mr. STUPAK, Mr. WYNN, Ms. DEGETTE, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Safe Drinking Water Act to require a national primary drinking water regulation for perchlorate.

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 “Safe Drinking Water
5 for Healthy Communities Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Perchlorate is a chemical used as the pri-
2 mary ingredient in solid propellant for rockets, mis-
3 siles, and fireworks.

4 (2) Large-scale production of perchlorate-con-
5 taining chemicals in the United States began in the
6 mid-1940s and large volumes have been disposed of
7 in various States since the 1950s.

8 (3) Perchlorate is an oxidizing anion that origi-
9 nates as a contaminant in ground and surface wa-
10 ters and is highly soluble and exceedingly mobile in
11 aqueous systems, persisting for many decades under
12 typical ground and surface water conditions.

13 (4) The most prevalent sources of perchlorate
14 contamination in environmental media can be traced
15 to the manufacture and improper disposal of wastes
16 from blasting agents and military munitions and to
17 a lesser extent fireworks.

18 (5) Ninety percent of perchlorate in the United
19 States is produced for use by the Department of De-
20 fense and the National Aeronautics and Space Ad-
21 ministration.

22 (6) According to the Government Accountability
23 Office, in May 2005, perchlorate contamination has
24 been detected in water and soil at almost 400 sites
25 in the United States. The Government Account-

1 ability Office concluded that because there is no
2 standardized approach for reporting perchlorate data
3 nationwide, a greater number of sites may exist.

4 (7) According to the Government Accountability
5 Office, in May 2005, limited Environmental Protec-
6 tion Agency data show that perchlorate has been
7 found in 35 States and the District of Columbia and
8 is known to have contaminated 153 public water sys-
9 tems in 26 States. The Government Accountability
10 Office reported that concentrations of perchlorate in
11 drinking water ranged from 4 parts per billion to
12 more than 420 parts per billion.

13 (8) Environmental Protection Agency data like-
14 ly underestimates the total drinking water exposure,
15 as illustrated by the findings of the California De-
16 partment of Health Services that perchlorate has
17 contaminated approximately 276 drinking water
18 sources and 77 drinking water systems in the State
19 of California.

20 (9) Food and Drug Administration scientists
21 and other scientific researchers have detected per-
22 chlorate in the United States food supply, including
23 but not limited to lettuce, milk, cucumbers, toma-
24 toes, carrots, cantaloupe, wheat, and spinach, and in
25 human breast milk.

1 (10) The Centers for Disease Control and Pre-
2 vention has concluded that perchlorate exposure ap-
3 pears to be widespread in the United States popu-
4 lations.

5 (11) The National Academy of Sciences re-
6 leased a report on January 10, 2005, which rec-
7 ommended a perchlorate reference dose of 0.0007
8 milligrams per kilogram per day.

9 (12) The Environmental Protection Agency has
10 not established a health advisory or national primary
11 drinking water regulation for perchlorate, but in
12 2005, established a “drinking water equivalent level”
13 of 24.5 parts per billion for perchlorate. A drinking
14 water level assumes the only exposure pathway is
15 through drinking water and does not account for
16 other non-drinking water exposure pathways, such
17 as food and breast milk.

18 (13) On January 22, 2003, the Environmental
19 Protection Agency issued interim assessment guid-
20 ance for perchlorate applicable to all Office of Solid
21 Waste and Emergency Response programs, recom-
22 mending the use of the provisional cleanup levels for
23 perchlorate in groundwater ranging from 4 to 18
24 parts per billion with the added suggestion to care-
25 fully consider the lower end of the provisional range.

1 (14) On January 26, 2006, the Environmental
2 Protection Agency issued Office of Solid Waste and
3 Emergency Response guidance increasing the Envi-
4 ronmental Protection Agency's provisional cleanup
5 levels for perchlorate in groundwater to 24.5 parts
6 per billion.

7 (15) In March 2006, the Children's Health Pro-
8 tection Advisory Committee advised the Environ-
9 mental Protection Agency that the Agency's prelimi-
10 nary remediation goal (PRG) for perchlorate is not
11 protective of children's health, as it can result in a
12 nursing infant exposure that is 5 to 10 times higher
13 than the recommended dose (Rfd) of 24.5 parts per
14 billion.

15 (16) Perchlorate inhibits the uptake of iodine
16 by the thyroid gland (which is necessary to produce
17 important hormones which help regulate normal
18 human health and development), presenting a risk to
19 human health in vulnerable populations, including
20 pregnant women and children.

21 (17) In October 2006, the Centers for Disease
22 Control and Prevention found significant changes in
23 the level of thyroid hormones in humans exposed to
24 perchlorate. For women with low iodine levels, per-
25 chlorate exposure was associated with changes in the

1 production levels of hormones by the thyroid. About
2 36 percent of women in the United States have
3 lower iodine levels.

4 (18) Given the seriousness of the potential ad-
5 verse effects associated with perchlorate and the fact
6 that children were at risk, combined with the ab-
7 sence of a Federal drinking water standard (MCL)
8 for perchlorate, California proposed a drinking water
9 standard of 6 parts per billion, and Massachusetts
10 promulgated a drinking water standard of 2 parts
11 per billion.

12 (19) Other States, including Nevada, Texas,
13 New York, and Maryland, have issued some form of
14 drinking water guidance for perchlorate, including a
15 drinking water action level, health-based guidance,
16 and a health based advisory level at ranges from 1
17 part per billion to 18 parts per billion.

18 (20) Perchlorate has been detected in the soil,
19 surface waters, and groundwater at 55 Department
20 of Defense facilities across the country, with off-site
21 migration occurring at some facilities.

22 (21) As of 2003, the Department of Defense
23 policy on perchlorate requires sampling only where a
24 perchlorate release due to Department activities is

1 suspected and a complete human exposure pathway
2 is likely to exist.

3 (22) According to the Environmental Protection
4 Agency, the Department of Defense is deferring all
5 remedial action relating to perchlorate contamina-
6 tion at or from its facilities until a Federal per-
7 chlorate drinking water standard is adopted.

8 (23) The Environmental Protection Agency has
9 historically failed to exercise its enforcement author-
10 ity under the Comprehensive Environmental Re-
11 sponse, Compensation, and Liability Act (CERCLA)
12 to compel the Department of Defense to undertake
13 remedial actions to address perchlorate contamina-
14 tion at Department facilities that are listed on the
15 Superfund National Priorities List.

16 (24) There are as many as 22 contaminants
17 without Federal drinking water standards for which
18 the Environmental Protection Agency has set site
19 specific cleanup levels for the remediation of ground-
20 water, making the lack of response actions for per-
21 chlorate contamination at Department of Defense
22 Superfund facilities a unique situation.

23 (25) The Environmental Protection Agency has
24 failed to take enforcement action against the De-
25 partment of Defense to cause the Department to

1 mitigate or remediate the perchlorate contamination
2 emanating from its Aberdeen Proving Ground facil-
3 ity that has adversely impacted the drinking water
4 supply for the City of Aberdeen, Maryland.

5 (26) Since 2002, the Department of Defense
6 actively sought to exempt the Department from
7 State and Federal public health and environmental
8 laws which protect drinking water supplies from
9 chemical constituents of military munitions including
10 perchlorate.

11 **SEC. 3. NATIONAL PRIMARY DRINKING WATER REGULA-**
12 **TION FOR PERCHLORATE.**

13 Section 1412(b)(12) of the Safe Drinking Water Act
14 (42 U.S.C. 300g-1(b)(12)) is amended by adding at the
15 end the following:

16 “(C) PERCHLORATE.—

17 “(i) SCHEDULE AND STANDARD.—

18 Notwithstanding the deadlines set forth in
19 paragraph (1), the Administrator shall
20 promulgate a national primary drinking
21 water regulation for perchlorate pursuant
22 to this subsection, in accordance with the
23 schedule established by this subparagraph.

24 “(ii) PROPOSED REGULATIONS.—Not
25 later than 12 months after the date of the

1 enactment of this subparagraph, the Ad-
2 ministrator shall publish in the Federal
3 Register a proposed national primary
4 drinking water regulation for perchlorate.

5 “(iii) FINAL REGULATIONS.—Not
6 later than 18 months after the date of
7 publication of the proposed national pri-
8 mary drinking water regulation required by
9 clause (ii), after notice and opportunity for
10 public comment, the Administrator shall
11 promulgate a national primary drinking
12 water regulation for perchlorate.”.

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