

108TH CONGRESS
2D SESSION

H. R. 3921

To protect public health and safety, should the testing of nuclear weapons
by the United States be resumed.

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2004

Mr. MATHESON introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committees on Energy and Commerce, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect public health and safety, should the testing of
nuclear weapons by the United States be resumed.

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 “Safety for Americans
5 from Nuclear Weapons Testing Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) From 1951 until 1992, the United States
2 conducted over 900 nuclear weapons tests at the Ne-
3 vada Test Site.

4 (2) Of those tests, 100 exploded above ground
5 and approximately one-fourth of those were bigger
6 than the bomb dropped on Hiroshima, Japan.

7 (3) The remaining 804 tests were detonated un-
8 derground, yet many of these tests also released sig-
9 nificant amounts of radioactive fallout into the at-
10 mosphere. The Shot Baneberry, detonated in 1970,
11 was buried 900 feet below ground but radioactive
12 debris erupted 10,000 feet into the air.

13 (4) Public health researchers studied the impli-
14 cations of radiation fallout and weapons testing in
15 1961 and discovered significant negative health ef-
16 fects.

17 (5) These research findings were not released
18 until 1979. In the meantime, American citizens were
19 never warned about the likelihood of contamination
20 in areas downwind of the blasts nor were they alert-
21 ed to adverse health effects associated with radiation
22 exposure.

23 (6) During the 1980s, public pressure forced
24 the Federal Government to address surprisingly high
25 rates of cancer and other illnesses among people ex-

1 posed to radioactive fallout, commonly known as
2 “downwinders,” which led to the passage of the Ra-
3 diation Exposure Compensation Act in 1990.

4 (7) To date, only one comprehensive radiation
5 exposure study of an isotope, iodine-131, has been
6 conducted and released. Iodine-131 is only one of
7 more than 150 radionuclides released by the tests to
8 which the American people were exposed.

9 (8) This same radioactive fallout study, con-
10 ducted by the National Cancer Institute, shows that
11 exposure was not limited to residents of Nevada and
12 Utah. Extensive radiation exposure has been docu-
13 mented in all of the contiguous 48 States, with some
14 counties in the Midwest and the eastern United
15 States receiving more fallout than some areas di-
16 rectly downwind of the Nevada Test Site.

17 (9) The United States has engaged in a mora-
18 torium on nuclear weapons testing since 1992. How-
19 ever, the United States might in the future decide
20 to resume nuclear weapons testing.

21 (10) Before any resumption of nuclear weapons
22 testing, the American public deserves much greater
23 accountability from the Federal Government with re-
24 spect to the health and safety aspects of nuclear
25 weapons testing.

1 (11) Therefore, the Federal Government must
2 ensure public safety in the event of future nuclear
3 weapons tests through a thorough analysis of the en-
4 vironmental effects of testing, public notification,
5 comprehensive and independent test monitoring, and
6 extensive health research efforts.

7 **SEC. 3. TREATMENT UNDER NATIONAL ENVIRONMENTAL**
8 **POLICY ACT OF 1969 OF ACTIONS RELATING**
9 **TO NUCLEAR WEAPONS TESTS.**

10 (a) IN GENERAL.—Each of the actions described in
11 subsection (b) by a Federal agency is deemed to be a
12 major Federal action significantly affecting the quality of
13 the human environment for which a separate detailed envi-
14 ronmental impact statement is required under section
15 102(2)(C) of the National Environmental Policy Act of
16 1969 (42 U.S.C. 4332).

17 (b) ACTIONS DESCRIBED.—The actions referred to in
18 subsection (a) are the following:

19 (1) Any action having as a purpose the resump-
20 tion of nuclear weapon or nuclear explosive device
21 tests at the Nevada Test Site.

22 (2) Use of a location other than the Nevada
23 Test Site for testing of a nuclear weapon or nuclear
24 explosive device.

25 (c) INCLUDED INFORMATION.—

1 (1) IN GENERAL.—The head of a Federal agen-
2 cy shall include in the environmental impact state-
3 ment prepared for an action described in subsection
4 (b) a detailed description of—

5 (A) the possibility of radiation containment
6 failure as a result of the action and the effects
7 of such containment failure; and

8 (B) possible long term effects on the water
9 table from underground radiation leakage re-
10 sulting from the action.

11 (2) INFORMATION FOR CATEGORIES OF WEAP-
12 ONS.—In the case of an action described in sub-
13 section (b) that is expected to result in the testing
14 of more than one nuclear weapon or nuclear explo-
15 sive device, the description required under paragraph
16 (1) shall be included, separately, with respect to
17 each of the following 3 classes of weapons and de-
18 vices that might be the subject of such tests:

19 (A) Weapons and devices having a yield of
20 less than 15 kilotons.

21 (B) Weapons and devices having a yield of
22 not less than 15 kilotons and not greater than
23 50 kilotons.

24 (C) Weapons and devices having a yield
25 greater than 50 kilotons.

1 (d) AVAILABILITY OF STATEMENTS.—The head of a
2 Federal agency that carries out an action described in sub-
3 section (b)—

4 (1) shall make publicly available the detailed
5 statement required for the action under section
6 102(2)(C) of the National Environmental Policy Act
7 of 1969, notwithstanding the existence of a classified
8 annex for the statement; and

9 (2) shall submit to the Congress each classified
10 annex to such a statement.

11 (e) EXISTING STATEMENTS NOT SUFFICIENT.—Any
12 statement prepared before the date of the enactment of
13 this Act shall not be treated as the statement required
14 by section 102(2)(C) of the National Environmental Pol-
15 icy Act of 1969 with respect to an action described in sub-
16 section (b).

17 **SEC. 4. CONGRESSIONAL AUTHORIZATION REQUIRED FOR**
18 **RESUMPTION OF NUCLEAR WEAPONS TEST-**
19 **ING.**

20 The United States may not resume testing of nuclear
21 weapons or any other nuclear explosive devices unless au-
22 thorized by a law enacted after the date of the enactment
23 of this Act.

24 **SEC. 5. PUBLIC NOTICE REQUIREMENTS.**

25 (a) ADVANCE PUBLIC NOTICE OF EACH TEST.—

1 (1) IN GENERAL.—The United States may not
2 carry out a test of a nuclear weapon or any other
3 nuclear explosive device unless, for each such test,
4 the President first provides, not less than 7 days be-
5 fore the date of the test, public notice of each of the
6 following:

7 (A) The fact that such a test is to be car-
8 ried out.

9 (B) The date and approximate time of the
10 test.

11 (C) The location of the test, including spe-
12 cific longitude and latitude.

13 (2) REVISIONS.—To the extent any information
14 provided pursuant to paragraph (1) changes, the
15 President shall promptly provide public notice of the
16 changes and of any other information necessary to
17 comply with paragraph (1).

18 (b) PROMPT NOTICE OF EACH RELEASE OF RADI-
19 ATION BEYOND NTS.—Whenever a test of a nuclear
20 weapon by the United States results in a release of radi-
21 ation beyond the boundaries of the Nevada Test Site, the
22 President shall promptly provide public notice of each of
23 the following:

24 (1) The actual date, time, and location of the
25 test.

1 (2) The fact that such a test has resulted in
2 such a release.

3 (3) The nature and extent of the release.

4 (c) **RULE OF CONSTRUCTION.**—The requirements of
5 subsections (a) and (b) shall apply notwithstanding any
6 provision of law that would otherwise require or permit
7 the information to not be made public.

8 **SEC. 6. GRANT PROGRAM FOR INDEPENDENT RADIATION**
9 **MONITORING.**

10 (a) **GRANTS AUTHORIZED.**—From amounts made
11 available to carry out this section, the Secretary of Home-
12 land Security, acting through the Office for Domestic Pre-
13 paredness, shall carry out a program under which the Sec-
14 retary makes grants to institutions of higher education for
15 use by those institutions only to acquire radiation detec-
16 tion equipment and sensors and, for a period of 10 years
17 thereafter, to maintain and operate such equipment and
18 sensors.

19 (b) **PREFERENCE.**—In making grants under this sec-
20 tion, the Secretary shall give preference to institutions in
21 those States that received high levels of fallout from nu-
22 clear weapons tests, as determined by data collected by
23 the National Cancer Institute.

24 (c) **CONDITIONS.**—As a condition of receiving a
25 grant, the institution shall, whenever the United States

1 carries out a test of a nuclear weapon or other nuclear
2 explosive device during the period referred to in subsection
3 (a)—

4 (1) use the equipment and sensors to carry out
5 monitoring to determine the nature and amount of
6 any radiation from the test that reaches such sen-
7 sors; and

8 (2) ensure that all information on radiation ob-
9 tained through monitoring under paragraph (1) is
10 made available to the public.

11 **SEC. 7. MONITORING OF RELEASES OF RADIATION INTO**
12 **THE ATMOSPHERE.**

13 (a) MONITORING BY DOE AND EPA.—Whenever the
14 United States carries out a test of a nuclear weapon or
15 other nuclear explosive device, monitoring to determine the
16 nature and extent of any radiation released into the at-
17 mosphere shall be carried out by—

18 (1) the Secretary of Energy, using—

19 (A) all available monitoring systems of the
20 Department of Energy located on or off the test
21 site; and

22 (B) any other complementary monitoring
23 system located off the test site that is made
24 available to the Secretary by the head of any
25 other element of the Federal Government; and

1 (2) the Administrator of the Environmental
2 Protection Agency, using one or more monitoring
3 systems and in consultation with the head of any
4 other element of the Federal Government with a
5 monitoring system located off the test site.

6 (b) DOE ASSESSMENT OF CONTAINMENT.—For each
7 test, the Secretary of Energy shall assess and evaluate the
8 containment of the test, both before and after the test.

9 (c) EPA MONITORING.—

10 (1) IN GENERAL.—The monitoring under sub-
11 section (a)(2) by the Administrator of the Environ-
12 mental Protection Agency shall use a combination of
13 temporary ground sensors, permanent ground sen-
14 sors, and airborne sensors.

15 (2) REAL-TIME MONITORING REQUIRED.—Any
16 sensors required by paragraph (1) that operate by
17 gathering air particulates shall have real-time moni-
18 toring capabilities.

19 (3) PLACEMENT.—The Administrator of the
20 Environmental Protection Agency shall determine
21 the locations for the sensors required by paragraph
22 (1) in consultation with the Administrator of the
23 National Oceanic and Atmospheric Administration,
24 the head of any other element of the Federal Gov-
25 ernment with a suitable monitoring system located

1 off the test site, and the head of any other element
2 of the Federal Government that the Administrator
3 of the Environmental Protection Agency considers
4 appropriate. The determinations shall be based on
5 proximity to major agricultural zones, population
6 centers, public water resources, and areas with high
7 levels of fallout from previous tests.

8 (d) PUBLIC NOTICE OF MONITORING DATA.—The
9 Secretary and the Administrator of the Environmental
10 Protection Agency each shall ensure that all information
11 on radiation obtained through monitoring under sub-
12 section (a) is made available to the public on the Internet
13 as soon as available, and in any event not more than 24
14 hours after such information is collected.

15 (e) FINDING OF RELEASE.—If, in monitoring any
16 such test, the head of any element of the Federal Govern-
17 ment determines that a release of radiation beyond the
18 boundaries of the NTS has occurred—

19 (1) the Administrator of the Environmental
20 Protection Agency shall immediately submit a report
21 to Congress providing notice of that determination;

22 (2) the United States shall stop all testing of all
23 nuclear weapons or other nuclear explosive devices,
24 except as otherwise provided in an Act enacted after
25 the date of the test; and

1 (3) the Attorney General shall carry out a pro-
2 gram, substantially similar to the program under
3 section 4 of the Radiation Exposure Compensation
4 Act (42 U.S.C. 2210 note), under which compensa-
5 tion is provided to individuals adversely affected by
6 that release of radiation.

7 **SEC. 8. ESTABLISHMENT OF THE CENTER FOR THE STUDY**
8 **OF RADIATION AND HUMAN HEALTH.**

9 (a) ESTABLISHMENT.—From amounts made avail-
10 able to carry out this section, the Director of the National
11 Institutes of Health shall make a grant to a university
12 or a consortium of universities located in the inter-
13 mountain west region of the United States to establish,
14 maintain, and operate a center described in subsection (b),
15 to be known as the National Center for the Study of Radi-
16 ation and Human Health.

17 (b) ACTIVITIES.—The activities of the National Cen-
18 ter for the Study of Radiation and Human Health shall
19 include the following:

20 (1) Awarding grants to institutions of higher
21 education for research on the relationship between
22 radiation and human health, including any health ef-
23 fects or illness related to exposure to particular ra-
24 dioactive isotopes.

1 (2) Studying the relationship between radiation
2 and human health, including fallout data collection.

3 (3) Coordinating efforts relating to research on
4 radiation and human health.

5 (4) Collecting, maintaining, and making avail-
6 able to the public by means of the Internet an ar-
7 chive of fallout data and human health effects data.

8 (c) REPORT.—The National Center for the Study of
9 Radiation and Human Health shall submit to Congress,
10 and make available to the public, an annual report on the
11 activities of the Center.

12 (d) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated such sums as may be
14 necessary to carry out this section.

15 **SEC. 9. STUDY OF INDIVIDUALS EXPOSED TO NUCLEAR**
16 **WEAPONS TESTS.**

17 Not later than 3 years after the date of the enact-
18 ment of this Act, the Secretary of Health and Human
19 Services, acting through the Director of the National Can-
20 cer Institute, shall—

21 (1) complete a study to estimate the dose of all
22 radionuclides received by the United States popu-
23 lation as a result of exposure to nuclear weapons
24 tests conducted in the United States;

- 1 (2) disaggregate the results of such study by
2 organ, by radionuclide, and by demographic vari-
3 ables;
- 4 (3) submit a report to Congress on the results
5 of such study; and
- 6 (4) make such results publicly available.

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