

108TH CONGRESS
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S. 2777

To protect public health and safety in the event that testing of nuclear weapons by the United States is resumed.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 7, 2004

Mr. BENNETT (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To protect public health and safety in the event that testing of nuclear weapons by the United States is 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. TREATMENT UNDER NATIONAL ENVIRONMENTAL**
7 **POLICY ACT OF ACTIONS RELATING TO NU-**
8 **CLEAR WEAPONS TESTS.**

9 (a) IN GENERAL.—Each action of a Federal agency
10 described in subsection (b) shall be deemed to be a major

1 Federal action significantly affecting the quality of the
2 human environment for which a separate environmental
3 impact statement is required under section 102(2)(C) of
4 the National Environmental Policy Act of 1969 (42 U.S.C.
5 4332(2)(C)).

6 (b) ACTIONS DESCRIBED.—An action described in
7 this subsection is any of the following:

8 (1) The resumption of underground nuclear
9 testing at the Nevada Test Site.

10 (2) The use of a location other than the Nevada
11 Test Site for the resumption of underground nuclear
12 testing.

13 (c) INCLUDED INFORMATION.—

14 (1) IN GENERAL.—The environmental impact
15 statement prepared under subsection (a) for an ac-
16 tion described in subsection (b) shall include a de-
17 tailed description of—

18 (A) the possibility of radiation containment
19 failure as a result of the action and the effects
20 of such containment failure; and

21 (B) the possible long-term effects on the
22 water table from underground radiation leakage
23 resulting from the action.

24 (2) INFORMATION FOR CATEGORIES OF WEAP-
25 ONS.—In the case of an action described in sub-

1 section (b) that is expected to result in the testing
2 of more than one nuclear weapon or nuclear explo-
3 sive device, the information required under para-
4 graph (1) shall be included separately with respect
5 to each, if any, of the following 3 classes of weapons
6 and devices that is the subject of such tests:

7 (A) Weapons and devices having a yield of
8 less than 15 kilotons.

9 (B) Weapons and devices having a yield of
10 not less than 15 kilotons and not greater than
11 50 kilotons.

12 (C) Weapons and devices having a yield of
13 greater than 50 kilotons.

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

17 (1) shall make available to the public the de-
18 tailed statement required for the action under sec-
19 tion 102(2)(C) of the National Environmental Policy
20 Act of 1969, except that the head of an agency shall
21 not make available to the public any classified annex
22 to such statement; and

23 (2) shall submit to Congress each classified
24 annex to such statement.

1 (e) EXISTING STATEMENTS NOT SUFFICIENT.—No
 2 statement prepared before the date of the enactment of
 3 this Act shall be treated as the statement required by sec-
 4 tion 102(2)(C) of the National Environmental Policy Act
 5 of 1969 with respect to an action described in subsection
 6 (b).

7 **SEC. 3. CONGRESSIONAL AUTHORIZATION REQUIRED FOR**
 8 **RESUMPTION OF NUCLEAR WEAPONS TEST-**
 9 **ING.**

10 The United States may not resume underground nu-
 11 clear testing unless authorized by an Act enacted after the
 12 date of the enactment of this Act.

13 **SEC. 4. PUBLIC NOTICE REQUIREMENTS.**

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

15 (1) IN GENERAL.—The United States may not
 16 resume underground nuclear testing unless the Sec-
 17 retary of Energy first provides, not later than 7
 18 days before the date of the test, public notice of the
 19 fact that such test is to be carried out.

20 (2) REVISIONS.—The President shall promptly
 21 provide to the public notice of any change to the in-
 22 formation provided pursuant to paragraph (1).

23 (b) PROMPT NOTICE OF EACH TEST.—After each
 24 underground nuclear test at the Nevada Test Site, the

1 Secretary of Energy shall promptly provide to the public
2 notice of each of the following:

3 (1) The date, time, and location of the test.

4 (2) The nature and extent of any release of ra-
5 diation resulting from such test.

6 (c) PUBLIC MEETING REQUIREMENT.—After an un-
7 derground nuclear test is conducted, the Secretary of En-
8 ergy shall hold a public meeting in southern Utah to dis-
9 cuss the details of the test, including the nature and extent
10 of any release of radiation as a result of the test.

11 (d) RULE OF CONSTRUCTION.—The notice require-
12 ments under subsections (a) and (b) shall apply notwith-
13 standing any provision of law that would otherwise require
14 or permit the information to not be made public.

15 **SEC. 5. STUDY ON SAFETY AND HEALTH OF CITIZENS IN**
16 **THE VICINITY OF THE NEVADA TEST SITE.**

17 Not later than one year after the date of the enact-
18 ment of this Act, the National Academy of Sciences shall,
19 for purposes of obtaining an independent analysis of the
20 safety, health, and environmental issues related to under-
21 ground nuclear testing and ensuring the safety and health
22 of citizens who live near the Nevada Test Site, complete
23 a study on the safety, health, and environmental measures
24 that the National Nuclear Security Administration has
25 taken with respect to underground nuclear testing. The

1 study shall also recommend additional measures that
 2 might be taken, if required, to ensure the safety and
 3 health of such citizens.

4 **SEC. 6. NEVADA TEST SITE CITIZENS REVIEW BOARD.**

5 (a) ESTABLISHMENT.—Not later than 180 days after
 6 the date of the enactment of this Act, the Secretary of
 7 Energy shall establish a Nevada Test Site Citizens Review
 8 Board (hereafter in this section referred to as the
 9 “Board”) to address environmental, health, and safety
 10 issues related to nuclear testing at the Nevada Test Site.

11 (b) MEMBERSHIP.—

12 (1) IN GENERAL.—The Board shall be com-
 13 posed of nine members appointed by the Secretary
 14 of Energy of whom—

15 (A) three members shall be citizens of Ne-
 16 vada, of whom—

17 (i) one shall be a State official with
 18 expertise in the fields of environmental
 19 safety, health, or air quality; and

20 (ii) two shall be community represent-
 21 atives;

22 (B) three members shall be citizens of Ari-
 23 zona, of whom—

1 (i) one shall be a State official with
 2 expertise in the fields of environmental
 3 safety, health, or air quality; and

4 (ii) two shall be community represent-
 5 atives; and

6 (C) three members shall be citizens of
 7 Utah, of whom—

8 (i) one shall be a State official with
 9 expertise in the fields of environmental
 10 safety, health, or air quality; and

11 (ii) two shall be community represent-
 12 atives.

13 (2) RECOMMENDATIONS FOR APPOINTMENTS.—

14 (A) NEVADA.—The members of the Board
 15 appointed under paragraph (1)(A) shall be ap-
 16 pointed from among any individuals that are
 17 recommended for such appointment by the chief
 18 executive officer of the State of Nevada.

19 (B) ARIZONA.—The members of the Board
 20 appointed under paragraph (1)(B) shall be ap-
 21 pointed from among any individuals that are
 22 recommended for such appointment by the chief
 23 executive officer of the State of Arizona.

24 (C) UTAH.—The members of the Board
 25 appointed under paragraph (1)(C) shall be ap-

1 pointed from among any individuals that are
2 recommended for such appointment by the chief
3 executive officer of the State of Utah pursuant
4 to such recommendations as have been made
5 jointly by the Five County Association of Gov-
6 ernments and the Six County Association of
7 Governments, Utah.

8 (c) MEETINGS.—

9 (1) IN GENERAL.—The Board shall meet annu-
10 ally, together with the Nevada Test Site Office Man-
11 ager, to discuss environmental, health, and safety
12 issues at the Nevada Test Site.

13 (2) REVIEW OF PROPOSED NUCLEAR TESTS.—

14 The Board shall meet not later than 180 days prior
15 to any proposed nuclear test at the Nevada Test Site
16 to discuss environmental, health, and safety issues
17 related to such proposed test.

18 **SEC. 7. GRANT PROGRAM FOR INDEPENDENT RADIATION**
19 **MONITORING.**

20 (a) GRANTS AUTHORIZED.—The Secretary of Home-
21 land Security, acting through the Office for Domestic Pre-
22 paredness, shall carry out a program under which the Sec-
23 retary makes grants to institutions of higher education—

24 (1) to acquire radiation detection equipment
25 and sensors for use by those institutions; and

1 (2) to maintain and operate such equipment
2 and sensors for a period of 10 years after the award
3 of such grant to the institution concerned.

4 (b) PREFERENCE.—In making grants under this sec-
5 tion, the Secretary shall give preference to institutions lo-
6 cated in States that have received high levels of fallout
7 from nuclear weapons tests, as determined by data col-
8 lected by the National Cancer Institute.

9 (c) CONDITIONS.—Each institution that receives a
10 grant under this section shall be required, whenever the
11 United States carries out an underground nuclear test
12 during the period referred to in subsection (a)—

13 (1) to use the equipment and sensors to carry
14 out monitoring to determine the nature and amount
15 of any radiation from the test that reaches such sen-
16 sors; and

17 (2) to ensure that all information on radiation
18 obtained through monitoring under paragraph (1) is
19 made available to the public.

20 **SEC. 8. MONITORING OF RELEASES OF RADIATION INTO**
21 **THE ATMOSPHERE.**

22 (a) MONITORING BY DEPARTMENT OF ENERGY AND
23 ENVIRONMENTAL PROTECTION AGENCY.—Whenever the
24 United States carries out an underground nuclear test,
25 monitoring to determine the nature and extent of any radi-

1 ation released into the atmosphere shall be carried out
2 by—

3 (1) the Secretary of Energy, using—

4 (A) all available monitoring systems of the
5 Department of Energy located on or off the test
6 site; and

7 (B) any other complementary monitoring
8 system located off the test site that is made
9 available to the Secretary by the head of any
10 other element of the Federal Government; and

11 (2) the Administrator of the Environmental
12 Protection Agency, using one or more monitoring
13 systems and in consultation with the head of any
14 other element of the Federal Government with a
15 monitoring system located off the test site.

16 (b) MONITORING STATIONS.—The Secretary of En-
17 ergy shall ensure that, not later than one year after the
18 date of the enactment of this Act, there shall be at least
19 one monitoring station that is established and operational
20 in each county of the State of Utah that has requested
21 such a monitoring station as of that date.

22 (c) ASSESSMENT OF CONTAINMENT BY DEPARTMENT
23 OF ENERGY.—For each underground nuclear test, the
24 Secretary of Energy shall assess and evaluate the contain-
25 ment of radiation before and after the test.

1 (d) MONITORING BY ENVIRONMENTAL PROTECTION
2 AGENCY.—

3 (1) IN GENERAL.—In carrying out monitoring
4 under subsection (a)(2), the Administrator of the
5 Environmental Protection Agency shall use a com-
6 bination of temporary ground sensors, permanent
7 ground sensors, and airborne sensors.

8 (2) REAL-TIME MONITORING REQUIRED.—Any
9 sensors employed pursuant to paragraph (1) that
10 operate by gathering air particles shall have real-
11 time monitoring capabilities.

12 (3) PLACEMENT OF SENSORS.—

13 (A) CONSULTATION.—In determining the
14 locations for the sensors employed pursuant to
15 paragraph (1), the Administrator of the Envi-
16 ronmental Protection Agency shall consult
17 with—

18 (i) the Administrator of the National
19 Oceanic and Atmospheric Administration;

20 (ii) the head of any other element of
21 the Federal Government with a suitable
22 monitoring system located off the test site;
23 and

24 (iii) the head of any other element of
25 the Federal Government that the Adminis-

1 trator of the Environmental Protection
2 Agency considers appropriate.

3 (B) CRITERIA FOR DETERMINATIONS.—In
4 determining the locations of sensors under this
5 paragraph, the Administrator of the Environ-
6 mental Protection Agency shall consider the
7 proximity of such locations to major agricul-
8 tural zones, population centers, public water re-
9 sources, and areas with high levels of fallout
10 from previous nuclear tests.

11 (e) PUBLIC NOTICE OF MONITORING DATA.—The
12 Secretary of Energy and the Administrator of the Envi-
13 ronmental Protection Agency each shall ensure that all in-
14 formation on radiation obtained through monitoring under
15 this section is made available to the public on the Internet
16 as soon as available, and in any event not more than 24
17 hours after such information is collected.

18 (f) FINDING OF RELEASE.—If, in monitoring any
19 test under this subsection, the head of any element of the
20 Federal Government determines that a release of radiation
21 beyond the boundaries of the Nevada Test Site has oc-
22 curred—

23 (1) the Administrator of the Environmental
24 Protection Agency shall immediately submit a report
25 to Congress providing notice of such determination;

1 (2) the United States shall cease all under-
2 ground nuclear testing, except as otherwise provided
3 in an Act enacted after the date of such test; and

4 (3) the Attorney General shall carry out a pro-
5 gram, substantially similar to the program carried
6 out under section 4 of the Radiation Exposure Com-
7 pensation Act (42 U.S.C. 2210 note), under which
8 compensation is provided to individuals adversely af-
9 fected by such release of radiation.

10 **SEC. 9. ESTABLISHMENT OF CENTER FOR THE STUDY OF**
11 **RADIATION AND HUMAN HEALTH.**

12 (a) ESTABLISHMENT.—The Director of the National
13 Institutes of Health shall make a grant to a university
14 or a consortium of universities located in the inter-
15 mountain west region of the United States to establish,
16 maintain, and operate a center to be known as the “Na-
17 tional Center for the Study of Radiation and Human
18 Health” (in this section referred to as the “Center”).

19 (b) ACTIVITIES.—The activities of the Center shall
20 include the following:

21 (1) Awarding grants to institutions of higher
22 education for research on the relationship between
23 radiation and human health, including any health ef-
24 fects or illness related to exposure to particular ra-
25 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.

(4) Collecting, maintaining, and making available to the public by means of the Internet an archive of data on fallout from nuclear tests and the effects of exposure to such fallout on human health.

9 (c) REPORT.—The Center shall submit to Congress,
10 and make available to the public, an annual report on the
11 activities of the Center.

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

15 SEC. 10. STUDY OF INDIVIDUALS EXPOSED TO NUCLEAR
16 WEAPONS TESTS.

Not later than 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the National Cancer Institute, shall—

(1) complete a study to estimate the dose of all radionuclides received by the United States population as a result of exposure to nuclear weapons 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 to Congress a report on the results
5 of such study; and
- 6 (4) make such results available to the public.

