

109TH CONGRESS  
1ST SESSION

# H. R. 1194

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

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2005

Mr. MATHESON (for himself, Ms. BERKLEY, and Mr. SPRATT) 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

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

13 **SEC. 6. STUDY ON SAFETY AND HEALTH OF CITIZENS IN**  
14 **THE VICINITY OF THE NEVADA TEST SITE.**

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

1 might be taken, if required, to ensure the safety and  
2 health of such citizens.

3 **SEC. 7. NEVADA TEST SITE CITIZENS REVIEW BOARD.**

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

10 (b) MEMBERSHIP.—

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

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

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

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

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

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

1 (ii) two shall be community represent-  
2 atives; and

3 (C) three members shall be citizens of  
4 Utah, of whom—

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

8 (ii) two shall be community represent-  
9 atives.

10 (2) RECOMMENDATIONS FOR APPOINTMENTS.—

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

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

21 (C) UTAH.—The members of the Board  
22 appointed under paragraph (1)(C) shall be ap-  
23 pointed from among any individuals that are  
24 recommended for such appointment by the chief  
25 executive officer of the State of Utah pursuant

1 to such recommendations as have been made  
2 jointly by the Five County Association of Gov-  
3 ernments and the Six County Association of  
4 Governments, Utah.

5 (c) MEETINGS.—

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

10 (2) REVIEW OF PROPOSED NUCLEAR TESTS.—  
11 The Board shall meet not later than 180 days prior  
12 to any proposed nuclear test at the Nevada Test Site  
13 to discuss environmental, health, and safety issues  
14 related to such proposed test.

15 **SEC. 8. GRANT PROGRAM FOR INDEPENDENT RADIATION**  
16 **MONITORING.**

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

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

6 (c) CONDITIONS.—As a condition of receiving a  
7 grant, the institution shall, whenever the United States  
8 carries out a test of a nuclear weapon or other nuclear  
9 explosive device during the period referred to in subsection  
10 (a)—

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

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

18 **SEC. 9. MONITORING OF RELEASES OF RADIATION INTO**  
19 **THE ATMOSPHERE.**

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

25 (1) the Secretary of Energy, using—

1 (A) all available monitoring systems of the  
2 Department of Energy located on or off the test  
3 site; and

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

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

13 (b) DOE ASSESSMENT OF CONTAINMENT.—For each  
14 test, the Secretary of Energy shall assess and evaluate the  
15 containment of radiation, both before and after the test.

16 (c) 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 (d) EPA MONITORING.—

23 (1) IN GENERAL.—The monitoring under sub-  
24 section (a)(2) by the Administrator of the Environ-  
25 mental Protection Agency shall use a combination of

1 temporary ground sensors, permanent ground sen-  
2 sors, and airborne sensors.

3 (2) REAL-TIME MONITORING REQUIRED.—Any  
4 sensors required by paragraph (1) that operate by  
5 gathering air particulates shall have real-time moni-  
6 toring capabilities.

7 (3) PLACEMENT.—The Administrator of the  
8 Environmental Protection Agency shall determine  
9 the locations for the sensors required by paragraph  
10 (1) in consultation with the Administrator of the  
11 National Oceanic and Atmospheric Administration,  
12 the head of any other element of the Federal Gov-  
13 ernment with a suitable monitoring system located  
14 off the test site, and the head of any other element  
15 of the Federal Government that the Administrator  
16 of the Environmental Protection Agency considers  
17 appropriate. The determinations shall be based on  
18 proximity to major agricultural zones, population  
19 centers, public water resources, and areas with high  
20 levels of fallout from previous tests.

21 (e) PUBLIC NOTICE OF MONITORING DATA.—The  
22 Secretary and the Administrator of the Environmental  
23 Protection Agency each shall ensure that all information  
24 on radiation obtained through monitoring under sub-  
25 section (a) is made available to the public on the Internet

1 as soon as available, and in any event not more than 24  
2 hours after such information is collected.

3 (f) FINDING OF RELEASE.—If, in monitoring any  
4 such test, the head of any element of the Federal Govern-  
5 ment determines that a release of radiation beyond the  
6 boundaries of the NTS has occurred—

7 (1) the Administrator of the Environmental  
8 Protection Agency shall immediately submit a report  
9 to Congress providing notice of that determination;

10 (2) the United States shall stop all testing of all  
11 nuclear weapons or other nuclear explosive devices,  
12 except as otherwise provided in an Act enacted after  
13 the date of the test; and

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

20 **SEC. 10. ESTABLISHMENT OF THE CENTER FOR THE STUDY**  
21 **OF RADIATION AND HUMAN HEALTH.**

22 (a) ESTABLISHMENT.—From amounts made avail-  
23 able to carry out this section, the Director of the National  
24 Institutes of Health shall make a grant to a university  
25 or a consortium of universities located in the inter-

1 mountain west region of the United States to establish,  
2 maintain, and operate a center described in subsection (b),  
3 to be known as the National Center for the Study of Radi-  
4 ation and Human Health.

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

8 (1) Awarding grants to institutions of higher  
9 education for research on the relationship between  
10 radiation and human health, including any health ef-  
11 fects or illness related to exposure to particular ra-  
12 dioactive isotopes.

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

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

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

20 (c) REPORT.—The National Center for the Study of  
21 Radiation and Human Health shall submit to Congress,  
22 and make available to the public, an annual report on the  
23 activities of the Center.

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

4 **SEC. 11. STUDY OF INDIVIDUALS EXPOSED TO NUCLEAR**  
5 **WEAPONS TESTS.**

6 Not later than 3 years after the date of the enact-  
7 ment of this Act, the Secretary of Health and Human  
8 Services, acting through the Director of the National Can-  
9 cer Institute, shall—

10 (1) complete a study to estimate the dose of all  
11 radionuclides received by the United States popu-  
12 lation as a result of exposure to nuclear weapons  
13 tests conducted in the United States;

14 (2) disaggregate the results of such study by  
15 organ, by radionuclide, and by demographic vari-  
16 ables;

17 (3) submit a report to Congress on the results  
18 of such study; and

19 (4) make such results publicly available.

○