

112TH CONGRESS
1ST SESSION

H. R. 1491

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 2011

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 Natural 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:

8 (1) From 1951 until 1992, the United States
9 conducted over 900 nuclear weapons tests at the Ne-

1 vada Test Site (now referred to as the “Nevada Na-
2 tional Security Site”).

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

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

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

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

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

1 “downwinders,” which led to the passage of the Ra-
2 diation Exposure Compensation Act in 1990.

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

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

22 (2) Use of a location other than the Nevada
23 National Security Site for testing of a nuclear weap-
24 on.

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, the description re-
15 quired under paragraph (1) shall be included, sepa-
16 rately, with respect to each of the following 3 classes
17 of weapons that might be the subject of such tests:

18 (A) Weapons having a yield of less than 15
19 kilotons.

20 (B) Weapons having a yield of not less
21 than 15 kilotons and not greater than 50 kilo-
22 tons.

23 (C) Weapons having a yield greater than
24 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 unless authorized by a law enacted after the date
22 of the enactment of this Act.

23 **SEC. 5. PUBLIC NOTICE REQUIREMENTS.**

24 (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 unless, for each
3 such test, the President first provides, not less than
4 7 days before the date of the test, public notice of
5 each of the following:

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

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

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

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

17 (b) PROMPT NOTICE OF EACH RELEASE OF RADI-
18 ATION BEYOND NEVADA NATIONAL SECURITY SITE.—
19 Whenever a test of a nuclear weapon by the United States
20 results in a release of radiation beyond the boundaries of
21 the Nevada National Security Site, the Secretary of En-
22 ergy shall provide public notice of each of the following
23 within one hour of detection of such radiation outside the
24 boundaries of the Nevada National Security Site:

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

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

5 (3) The nature and extent of the release, in-
6 cluding a list of areas potentially at risk from radio-
7 nuclides, with determination of risk based on such
8 factors as atmospheric conditions and the quantity
9 of radionuclides released.

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

14 (d) **PUBLIC MEETING REQUIREMENT.**—After an un-
15 derground nuclear test is conducted, the Secretary of En-
16 ergy shall hold public meetings in southern Utah, Arizona,
17 and Nevada to discuss the details of the test, including
18 the nature and extent of any release of radiation as a re-
19 sult of the test.

20 **SEC. 6. STUDY ON SAFETY AND HEALTH OF CITIZENS IN**
21 **THE VICINITY OF THE NEVADA NATIONAL SE-**
22 **CURITY SITE.**

23 Not later than one year after the date of the enact-
24 ment of this Act, the National Academy of Sciences shall,
25 for purposes of obtaining an independent analysis of the

1 safety, health, and environmental issues related to under-
2 ground nuclear testing and ensuring the safety and health
3 of citizens who live near the Nevada National Security
4 Site, complete a study on the safety, health, and environ-
5 mental measures that the National Nuclear Security Ad-
6 ministration has taken with respect to underground nu-
7 clear testing. The study shall also recommend additional
8 measures that might be taken, if required, to ensure the
9 safety and health of such citizens.

10 **SEC. 7. NEVADA NATIONAL SECURITY SITE CITIZENS RE-**
11 **VIEW BOARD.**

12 (a) ESTABLISHMENT.—Not later than 180 days after
13 the date of the enactment of this Act, the Secretary of
14 Energy shall establish a Nevada National Security Site
15 Citizens Review Board (hereafter in this section referred
16 to as the “Board”) to address environmental, health, and
17 safety issues related to nuclear testing at the Nevada Na-
18 tional Security Site.

19 (b) MEMBERSHIP.—

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

23 (A) three members shall be citizens of Ne-
24 vada, 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;

6 (B) three members shall be citizens of Ari-
7 zona, 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; and

13 (C) three members shall be citizens of
14 Utah, of whom—

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

18 (ii) two shall be community represent-
19 atives.

20 (2) RECOMMENDATIONS FOR APPOINTMENTS.—

21 (A) NEVADA.—The members of the Board
22 appointed under paragraph (1)(A) 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 Nevada.

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

6 (C) UTAH.—The members of the Board
7 appointed under paragraph (1)(C) shall be ap-
8 pointed from among any individuals that are
9 recommended for such appointment by the chief
10 executive officer of the State of Utah pursuant
11 to such recommendations as have been made
12 jointly by the Five County Association of Gov-
13 ernments and the Six County Association of
14 Governments, Utah.

15 (c) MEETINGS.—

16 (1) IN GENERAL.—The Board shall meet annu-
17 ally, together with the Nevada National Security
18 Site Office Manager, to discuss environmental,
19 health, and safety issues at the Nevada National Se-
20 curity Site.

21 (2) REVIEW OF PROPOSED NUCLEAR TESTS.—
22 The Board shall meet not later than 180 days prior
23 to any proposed nuclear test at the Nevada National
24 Security Site to discuss environmental, health, and
25 safety issues related to such proposed test.

1 **SEC. 8. GRANT PROGRAM FOR INDEPENDENT RADIATION**
2 **MONITORING.**

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

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

17 (c) CONDITIONS.—As a condition of receiving a
18 grant, the institution shall, whenever the United States
19 carries out a test of a nuclear weapon during the period
20 referred to in subsection (a)—

21 (1) use the equipment and sensors to carry out
22 monitoring to determine the nature and amount of
23 any radiation from the test that reaches such sen-
24 sors; and

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

4 **SEC. 9. MONITORING OF RELEASES OF RADIATION INTO**
5 **THE ATMOSPHERE.**

6 (a) **MONITORING BY DOE AND EPA.**—Whenever the
7 United States carries out a test of a nuclear weapon, mon-
8 itoring to determine the nature and extent of any radiation
9 released into the atmosphere shall be carried out by—

10 (1) the Secretary of Energy, using—

11 (A) all available monitoring systems of the
12 Department of Energy located on or off the test
13 site; and

14 (B) any other complementary monitoring
15 system located off the test site that is made
16 available to the Secretary by the head of any
17 other element of the Federal Government; and

18 (2) the Administrator of the Environmental
19 Protection Agency, using one or more monitoring
20 systems and in consultation with the head of any
21 other element of the Federal Government with a
22 monitoring system located off the test site.

23 (b) **DOE ASSESSMENT OF CONTAINMENT.**—For each
24 test, the Secretary of Energy shall assess and evaluate the
25 containment of radiation, both before and after the test.

1 (c) MONITORING STATIONS.—The Secretary of En-
2 ergy shall ensure that, not later than one year after the
3 date of the enactment of this Act, there shall be at least
4 one monitoring station that is established and operational
5 in each county of the State of Utah that has requested
6 such a monitoring station as of that date.

7 (d) EPA MONITORING.—

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

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

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

1 of the Environmental Protection Agency considers
2 appropriate. The determinations shall be based on
3 proximity to major agricultural zones, population
4 centers, public water resources, and areas with high
5 levels of fallout from previous tests.

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

13 (f) FINDING OF RELEASE.—If, in monitoring any
14 such test, the head of any element of the Federal Govern-
15 ment determines that a release of radiation beyond the
16 boundaries of the Nevada National Security Site has oc-
17 curred—

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

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

24 (3) the Attorney General shall carry out a pro-
25 gram, substantially similar to the program under

1 section 4 of the Radiation Exposure Compensation
2 Act (42 U.S.C. 2210 note), under which compensa-
3 tion is provided to individuals adversely affected by
4 that release of radiation.

5 **SEC. 10. ESTABLISHMENT OF THE CENTER FOR THE STUDY**
6 **OF RADIATION AND HUMAN HEALTH.**

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

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

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

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

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

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

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

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

13 **SEC. 11. STUDY OF INDIVIDUALS EXPOSED TO NUCLEAR**
14 **WEAPONS TESTS.**

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

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

23 (2) disaggregate the results of such study by
24 organ, by radionuclide, and by demographic vari-
25 ables;

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

3 (4) make such results publicly available.

4 **SEC. 12. NEVADA TEST SITE REFERENCE.**

5 Except as otherwise provided, any reference to the
6 “Nevada Test Site” in this Act or any other law shall be
7 deemed to be a reference to the “Nevada National Secu-
8 rity Site”.

9 **SEC. 13. DEFINITION.**

10 For purposes of this Act, the term “nuclear weapon”
11 includes other nuclear explosive devices producing a nu-
12 clear yield.

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