

110TH CONGRESS  
1ST SESSION

# S. 2208

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

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 19, 2007

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

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## 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-

pointed from among any individuals that are recommended for such appointment by the chief executive officer of the State of Utah pursuant to such recommendations as have been made jointly by the Five County Association of Governments and the Six County Association of Governments, Utah.

(c) MEETINGS.—

(1) IN GENERAL.—The Board shall meet annually, together with the Nevada Test Site Office Manager, to discuss environmental, health, and safety issues at the Nevada Test Site.

(2) REVIEW OF PROPOSED NUCLEAR TESTS.—

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

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

(a) GRANTS AUTHORIZED.—The Secretary of Homeland Security, acting through the Office for Domestic Preparedness, shall carry out a program under which the Secretary makes grants to institutions of higher education—

(1) to acquire radiation detection equipment 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.

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.

