

119TH CONGRESS
1ST SESSION

S. _____

To require the Secretary of Energy to identify entities engaged in activities detrimental to the national security, economic security, or foreign policy of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To require the Secretary of Energy to identify entities engaged in activities detrimental to the national security, economic security, or foreign policy of the United States, and for other purposes.

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 “Securing Energy Sup-
5 ply Chains Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ENERGY NON-PROCUREMENT LIST.—The
2 term “Energy Non-Procurement List” means the
3 list of identified entities established under section
4 3(a)(1).

5 (2) FOREIGN ENTITY OF CONCERN.—The term
6 “foreign entity of concern” has the meaning given
7 the term in section 40207(a) of the Infrastructure
8 Investment and Jobs Act (42 U.S.C. 18741(a)).

9 (3) SECRETARY.—The term “Secretary” means
10 the Secretary of Energy.

11 **SEC. 3. ENERGY NON-PROCUREMENT LIST.**

12 (a) ESTABLISHMENT.—

13 (1) IN GENERAL.—Not later than 90 days after
14 the date of enactment of this Act, the Secretary
15 shall establish a list of identified entities that the
16 Secretary has determined, based on the most recent
17 information available, are engaged in activities detri-
18 mental to the national security, economic security, or
19 foreign policy of the United States.

20 (2) PRIORITIZATION.—In carrying out para-
21 graph (1), the Secretary shall prioritize identifying
22 entities that produce, manufacture, process, extract,
23 recycle, assemble, or otherwise provide—

1 (A) critical materials (as defined in section
2 7002(a) of the Energy Act of 2020 (30 U.S.C.
3 1606(a))); or

4 (B) batteries, including battery compo-
5 nents.

6 (3) INCLUSIONS.—In carrying out paragraph
7 (1), the Secretary—

8 (A) shall include on the Energy Non-Pro-
9 curement List any entity that—

10 (i) is a foreign entity of concern;

11 (ii) is included on the Chinese Mili-
12 tary Company List of the Department of
13 Defense published under section 1260H of
14 the William M. (Mac) Thornberry National
15 Defense Authorization Act for Fiscal Year
16 2021 (10 U.S.C. 113 note; Public Law
17 116–283); or

18 (iii) has majority ownership of an en-
19 tity on the Energy Non-Procurement List;
20 and

21 (B) may include on the Energy Non-Pro-
22 curement List—

23 (i) any entity that is included on the
24 Consolidated Screening List maintained by

1 the International Trade Administration of
2 the Department of Commerce; and

3 (ii) any other entity, as determined by
4 the Secretary.

5 (4) ANNUAL REVISIONS.—The Secretary shall,
6 not less frequently than annually, make additions or
7 deletions to the Energy Non-Procurement List.

8 (5) CONSULTATION.—In carrying out para-
9 graph (1), the Secretary may consult with the head
10 of any appropriate Federal department or agency.

11 (b) REPORT.—

12 (1) IN GENERAL.—Not later than 1 year after
13 the date of enactment of this Act, and annually
14 thereafter, the Secretary shall submit to the Com-
15 mittee on Energy and Natural Resources of the Sen-
16 ate and the Committee on Energy and Commerce of
17 the House of Representatives a report containing—

18 (A) the most up-to-date Energy Non-Pro-
19 curement List; and

20 (B) a description of why an entity was in-
21 cluded on the Energy Non-Procurement List,
22 including justification for any additions or re-
23 movals of entities from the list, as applicable.

24 (2) FORM.—

1 (A) UNCLASSIFIED.—The information re-
2 quired under paragraph (1)(A) shall be sub-
3 mitted in unclassified form.

4 (B) CLASSIFIED.—The information re-
5 quired under paragraph (1)(B) shall be sub-
6 mitted as a classified annex.

7 (3) PUBLICATION.—Concurrent with the sub-
8 mission of a report described in paragraph (1), the
9 Secretary shall publish the unclassified portion of
10 that report on the website of the Department of En-
11 ergy.

12 **SEC. 4. PROHIBITION ON PROCUREMENT.**

13 (a) DEFINITION OF COVERED CONTRACTOR.—In this
14 section, the term “covered contractor” means a general
15 contractor, prime contractor, or other lead entity on a
16 project involving the provision of funding to, or the pro-
17 curement of goods, services, or technology from—

18 (1) an entity on the Energy Non-Procurement
19 List; or

20 (2) an entity that provides goods, services, or
21 technologies that contain components from an entity
22 on the Energy Non-Procurement List.

23 (b) PROHIBITION.—

24 (1) IN GENERAL.—Beginning on the date that
25 is 1 year after the date of enactment of this Act, ex-

1 cept as provided in paragraph (2), the Secretary
2 shall not enter into or renew any contract with a
3 covered contractor.

4 (2) EXCEPTION.—The Secretary may enter into
5 or renew a contract described in paragraph (1) if the
6 applicable goods, services, or technologies are not
7 procurable in the manner, timeliness, or quantity re-
8 quired for the success of the applicable project—

9 (A) the duration of which shall be deter-
10 mined based on the amount of time needed by
11 the covered contractor to complete the applica-
12 ble project; and

13 (B) subject to conditions that the Sec-
14 retary may require.

15 (3) CONTRACTOR SUBMISSIONS.—If the Sec-
16 retary enters into or renews a contract with a cov-
17 ered contractor under paragraph (2), the covered
18 contractor shall submit to the Secretary on a month-
19 ly basis a report describing any agreements or con-
20 tracts entered into with any entity on the Energy
21 Non-Procurement List and with any entity that pro-
22 vides goods, services, or technologies that contain
23 components from an entity on the Energy Non-Pro-
24 curement List, as applicable, throughout the dura-
25 tion of the applicable contract.

1 (4) REPORT.—Not later than 90 days after the
2 date that the Secretary enters into or renews a con-
3 tract with a covered contractor under paragraph (2),
4 the Secretary shall submit to the Committee on En-
5 ergy and Natural Resources of the Senate and the
6 Committee on Energy and Commerce of the House
7 of Representatives a report that includes—

8 (A) a description of the applicable con-
9 tract;

10 (B) an analysis of potential alternative do-
11 mestic or friendly-country sources of the goods,
12 services, or technologies being procured in the
13 applicable contract; and

14 (C) recommendations for how to support
15 developing domestic or friendly-country sources
16 of those goods, services, or technologies, if those
17 sources do not exist.

18 **SEC. 5. LIST OVERLAP STUDY.**

19 (a) STUDY.—Not later than 1 year after the date of
20 enactment of this Act, the Secretary, in coordination with
21 the Secretary of Commerce, the Secretary of Defense, the
22 Secretary of State, the Secretary of the Treasury, the Di-
23 rector of National Intelligence, and the heads of other
24 Federal departments and agencies, as the Secretary deter-
25 mines appropriate, shall carry out a study to identify lists

1 created by each Federal department or agency, and any
2 overlap present when comparing those lists, relating to—

3 (1) foreign entities of concern;

4 (2) entities subject to sanctions imposed by the
5 United States;

6 (3) Chinese military companies;

7 (4) entities with which Federal agencies are
8 prohibited from entering into procurement contracts;
9 and

10 (5) other entities that work with the Chinese
11 Communist Party.

12 (b) REPORT.—Not later than 1 year after the date
13 of enactment of this Act, the Secretary shall submit to
14 Congress a report that includes—

15 (1) the results of the study conducted under
16 subsection (a); and

17 (2) recommendations on how to harmonize the
18 lists identified in the study conducted under sub-
19 section (a) in order to provide clarification on which
20 entities the Federal Government should not contract
21 with to procure goods, services, or technology.