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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

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 HOUSE OF REPRESENTATIVES

Mr. FALLON introduced the following bill; which was 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, energy security, eco-
19 nomic security, public safety, or foreign policy of the
20 United States.

21 (2) PRIORITIZATION.—In carrying out para-
22 graph (1), the Secretary shall prioritize identifying
23 entities that produce, manufacture, process, extract,
24 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 may include on the Energy Non-
8 Procurement List—

9 (A) any entity that—

10 (i) is owned, controlled, or influenced
11 by a foreign entity of concern;

12 (ii) is included on the Chinese Mili-
13 tary Company List of the Department of
14 Defense published under section 1260H of
15 the William M. (Mac) Thornberry National
16 Defense Authorization Act for Fiscal Year
17 2021 (10 U.S.C. 113 note; Public Law
18 116–283);

19 (iii) is included on the list of specially
20 designated nationals and blocked persons
21 maintained by the Office of Foreign Assets
22 Control of the Department of the Treasury
23 (commonly known as the “SDN list”);

1 (iv) is included on the State Depart-
2 ment list of foreign terrorist organizations;
3 or

4 (v) is included on the Consolidated
5 Screening List maintained by the Inter-
6 national Trade Administration of the De-
7 partment of Commerce;

8 (B) any entity that is a subsidiary or par-
9 ent company of an entity included on the En-
10 ergy Non-Procurement List under subpara-
11 graph (A); and

12 (C) any other entity, as determined by the
13 Secretary to be engaged in activities detri-
14 mental to the national security, economic secu-
15 rity, or foreign policy of the United States.

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

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

22 (b) REPORT.—

23 (1) IN GENERAL.—Not later than 1 year after
24 the date of enactment of this Act, and annually
25 thereafter, the Secretary shall submit to the Com-

1 mittee on Energy and Natural Resources of the Sen-
2 ate and the Committee on Energy and Commerce of
3 the House of Representatives a report containing—

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

6 (B) a justification of why an entity was in-
7 cluded on or removed from the Energy Non-
8 Procurement List, as applicable.

9 (2) FORM.—

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

13 (B) CLASSIFIED.—The information re-
14 quired under paragraph (1)(B) shall be sub-
15 mitted as a classified annex.

16 (3) PUBLICATION.—Concurrent with the sub-
17 mission of a report described in paragraph (1), the
18 Secretary shall publish the unclassified portion of
19 that report on the website of the Department of En-
20 ergy.

21 **SEC. 4. PROHIBITION ON PROCUREMENT.**

22 (a) PROHIBITION.—

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

1 (A) the Secretary may not enter into or
2 renew any DOE contract with a covered indi-
3 vidual or entity unless the Secretary determines
4 that the goods or services to be procured under
5 such contract are not procurable from another
6 source in the manner, time frame, or quantity
7 required for the success of the applicable
8 project; and

9 (B) a contractor of the Department of En-
10 ergy (and any first-tier subcontractor thereof)
11 may not enter into or renew a covered sub-
12 contract with a covered individual or entity un-
13 less Secretary determines that the goods or
14 services to be procured under such subcontract
15 are not procurable from another source in the
16 manner, time frame, or quantity required for
17 the success of the applicable project.

18 (2) CERTIFICATION.—Each bidder or offeror
19 for a DOE contract shall certify at the time of the
20 submission of such bid or offer that the bidder or of-
21 feror is not a covered individual or entity.

22 (3) CONTRACT TERMINATION.—In the case that
23 the Secretary determines during the term of a DOE
24 contract that the contractor (or subcontractor there-
25 of at the first or second tier) is a covered individual

1 or entity, the Secretary shall terminate the DOE
2 contract unless the Secretary determines—

3 (A) that the applicable goods or serv-
4 ices are not procurable from another source in
5 the manner, time frame, or quantity required
6 for the success of the applicable project; or

7 (B) with respect to a subcontractor that is
8 a covered individual or entity, the person that
9 subcontracted with such subcontractor acted in
10 good faith at such time in determining that the
11 subcontractor was not a covered individual or
12 entity.

13 (b) REPORT.—Not later than 90 days after the date
14 on which the Secretary enters into or renews a contract
15 with a person under an exception provided by subsection
16 (a)(1), the Secretary shall submit to the Committee on
17 Energy and Natural Resources of the Senate and the
18 Committee on Energy and Commerce of the House of
19 Representatives a report that includes—

20 (1) a description of the applicable contract;
21 (2) an analysis of any existing alternative
22 sources of the goods or services being procured in
23 the applicable contract; and

1 (3) recommendations for how to support the de-
2 velopment of domestic sources of those goods, serv-
3 ices, or technologies, if those sources do not exist.

4 (c) DEFINITION.—In this section:

5 (1) COVERED INDIVIDUAL OR ENTITY.—The
6 term “covered individual or entity” means—

7 (A) an entity on the Energy Non-Procure-
8 ment List; or

9 (B) an individual or entity that provides
10 funding to, or procures goods or services from
11 an entity on the Energy Non-Procurement List.

12 (2) DOE CONTRACT.—The term “DOE con-
13 tract” means a contract with the Department of En-
14 ergy for the procurement of goods or services.

15 (3) SUBCONTRACT.—The term “subcontract”
16 means a subcontract for an amount exceeding
17 \$250,000.

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.