

117TH CONGRESS  
1ST SESSION

# S. 2871

To establish a task force on the implications of amending the Atomic Energy Act of 1954 to remove exemptions from environmental laws for spent nuclear fuel and high-level radioactive waste to allow for consent-based siting of geologic repositories.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2021

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To establish a task force on the implications of amending the Atomic Energy Act of 1954 to remove exemptions from environmental laws for spent nuclear fuel and high-level radioactive waste to allow for consent-based siting of geologic repositories.

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 “Nuclear Waste Task  
5       Force Act of 2021”.

6       **SEC. 2. TASK FORCE.**

7       (a) DEFINITIONS.—In this section:

1           (1) ENVIRONMENTAL JUSTICE COMMUNITY.—

2           The term “environmental justice community” means  
3           a community with a significant representation of  
4           communities of color, low-income communities, or  
5           Tribal and indigenous communities that experiences,  
6           or is at risk of experiencing, higher or more adverse  
7           human health or environmental effects, as compared  
8           to other communities.

9           (2) EPA REPRESENTATIVE.—The term “EPA  
10          representative” means the member of the Task  
11          Force appointed under subsection (c)(2)(B)(i).

12          (3) HIGH-LEVEL RADIOACTIVE WASTE.—The  
13          term “high-level radioactive waste” has the meaning  
14          given the term in section 2 of the Nuclear Waste  
15          Policy Act of 1982 (42 U.S.C. 10101).

16          (4) INDIAN TRIBE.—The term “Indian Tribe”  
17          means an Indian tribe included on the list published  
18          by the Secretary of the Interior under section 104  
19          of the Federally Recognized Indian Tribe List Act of  
20          1994 (25 U.S.C. 5131).

21          (5) SPENT NUCLEAR FUEL.—The term “spent  
22          nuclear fuel” has the meaning given the term in sec-  
23          tion 2 of the Nuclear Waste Policy Act of 1982 (42  
24          U.S.C. 10101).

1           (6) TASK FORCE.—The term “Task Force”  
2       means the task force established under subsection  
3       (b).

4       (b) ESTABLISHMENT.—The Administrator of the En-  
5       vironmental Protection Agency shall establish a task force,  
6       to be known as “Task Force on the Implications of  
7       Amending the Atomic Energy Act of 1954 to Remove Ex-  
8       emptions from Environmental Laws for Spent Nuclear  
9       Fuel And High-Level Radioactive Waste to Allow for Con-  
10      sent-Based Siting of Geologic Repositories”—

11           (1) to continue the work of the 2012 Blue Rib-  
12      bon Commission on America’s Nuclear Future,  
13      which found that consent was necessary to success-  
14      fully arrive at permanent disposal sites for nuclear  
15      waste; and

16           (2) to analyze the implications of amending the  
17      Atomic Energy Act of 1954 (42 U.S.C. 2011 et  
18      seq.) to remove exemptions from environmental laws  
19      for spent nuclear fuel from commercial reactors and  
20      high-level radioactive waste from defense and com-  
21      mercial origins in order to create a consent-driven  
22      pathway to addressing the disposal challenges of  
23      commercial and defense nuclear waste.

24      (c) MEMBERSHIP.—

1           (1) IN GENERAL.—The Task Force shall in-  
2       clude a balanced representation of—

3                   (A) Federal, State, Tribal, and local gov-  
4       ernment agencies;

5                   (B) nongovernmental organizations;

6                   (C) unions; and

7                   (D) the private sector.

8       (2) MEMBERS.—

9           (A) IN GENERAL.—The Task Force shall  
10       be composed of not more than 30 members who  
11       represent entities that—

12                   (i) are currently affected by the stor-  
13       age, treatment, or management of commer-  
14       cial or defense nuclear waste; or

15                   (ii) have cognizable and well-under-  
16       stood interests in the objectives of the  
17       Task Force.

18       (B) FEDERAL MEMBERS.—Not more than  
19       5 members of the Task Force shall be rep-  
20       resentatives of the Federal Government, of  
21       whom—

22                   (i) 1 shall be appointed by the Admin-  
23       istrator of the Environmental Protection  
24       Agency to represent the Environmental  
25       Protection Agency;

1 (ii) 1 shall be appointed by the Sec-  
2 retary of Energy to represent the Depart-  
3 ment of Energy;

4 (iii) 1 shall be appointed by the Nu-  
5 clear Regulatory Commission to represent  
6 the Nuclear Regulatory Commission;

7 (iv) 1 shall be appointed by the Direc-  
8 tor of the White House Office of Science  
9 and Technology Policy to represent the  
10 White House Office of Science and Tech-  
11 nology Policy; and

12 (v) 1 shall be appointed by the Sec-  
13 retary of Transportation to represent the  
14 Department of Transportation.

15 (C) NON-FEDERAL MEMBERS.—

16 (i) IN GENERAL.—Except as provided  
17 in clause (ii), the EPA representative shall  
18 appoint the non-Federal members of the  
19 Task Force.

20 (ii) STATE GOVERNMENT REPRESENT-  
21 ATIVES.—

22 (I) IN GENERAL.—The EPA rep-  
23 resentative shall select not fewer than  
24 7 States, representing a geographical  
25 balance from across the United

1 States, the governments of which shall  
2 be represented on the Task Force.

3 (II) APPOINTMENT.—The Gov-  
4 ernor of a State selected under sub-  
5 clause (I), or an appropriate agency of  
6 the State, such as a State department  
7 of ecology or State environment de-  
8 partment, if the Governor determines  
9 it to be appropriate, shall appoint the  
10 representative of the State govern-  
11 ment who shall serve on the Task  
12 Force.

13 (iii) OTHER NON-FEDERAL MEM-  
14 BERS.—

15 (I) GEOGRAPHIC AND HISTOR-  
16 ICAL BALANCE.—In selecting the non-  
17 Federal members of the Task Force,  
18 the EPA representative shall ensure—

19 (aa) a geographical balance  
20 among the non-Federal members  
21 from across the United States;  
22 and

23 (bb) a balance of historical  
24 concerns with respect to nuclear  
25 waste.

1 (II) INTERESTS.—In selecting  
 2 the non-Federal members of the Task  
 3 Force, the EPA representative shall  
 4 ensure that not fewer than 18 mem-  
 5 bers are selected from among rep-  
 6 resentatives of—

7 (aa) Indian Tribes;

8 (bb) national environmental  
 9 interest groups;

10 (cc) regional environmental  
 11 justice groups;

12 (dd) industry;

13 (ee) labor organizations;

14 (ff) professional societies;

15 and

16 (gg) safety- and health-re-  
 17 lated organizations.

18 (D) SELECTION OF CHAIR.—The non-Fed-  
 19 eral members of the Task Force appointed  
 20 under subparagraph (C) shall select the Chair  
 21 of the Task Force from among the non-Federal  
 22 members.

23 (3) COMPENSATION; EXPENSES.—

24 (A) COMPENSATION.—A member of the  
 25 Task Force shall serve without compensation.

1 (B) EXPENSES.—A member of the Task  
2 Force shall receive reimbursement from the Ad-  
3 ministrator of the Environmental Protection  
4 Agency at the applicable Federal per diem rate  
5 for all out-of-pocket expenses incurred in car-  
6 rying out the duties of the Task Force.

7 (d) GRANTS.—Subject to the approval of the Federal  
8 members of the Task Force appointed under subsection  
9 (c)(2)(B), the Chair of the Task Force may provide par-  
10 ticipation grants to task force members from underre-  
11 sourced communities, environmental justice communities,  
12 or nonprofit organizations that are located in environ-  
13 mental justice communities and represent and work on be-  
14 half of environmental justice communities with respect to  
15 issues relating to the storage and disposal of spent nuclear  
16 fuel and high-level radioactive waste.

17 (e) DUTIES.—

18 (1) REPORT.—Not later than 1 year after the  
19 date of enactment of this Act, the Task Force shall  
20 submit to Congress and the President a report, in  
21 unclassified form, that—

22 (A)(i) provides a clear explanation of what  
23 constitutes “consent-based siting”; and

1 (ii) includes recommendations on how con-  
2 sent-based siting could be practically imple-  
3 mented;

4 (B) describes and evaluates, taking into  
5 consideration the consent-based siting rec-  
6 ommendations of the 2012 Blue Ribbon Com-  
7 mission for America’s Nuclear Future—

8 (i) the implications of amending the  
9 Atomic Energy Act of 1954 (42 U.S.C.  
10 2011 et seq.) to remove exemptions from  
11 environmental laws, such as the Solid  
12 Waste Disposal Act (42 U.S.C. 6901 et  
13 seq.) (commonly known as the “Resource  
14 Conservation and Recovery Act of 1976”),  
15 for spent nuclear fuel and high-level radio-  
16 active waste, while maintaining Federal  
17 minimum standards;

18 (ii) the likely allocations of precise  
19 regulatory responsibilities under any  
20 amendment to the Atomic Energy Act of  
21 1954 (42 U.S.C. 2011 et seq.) described  
22 and evaluated under clause (i); and

23 (iii) the timeframe necessary for de-  
24 veloping regulations in accordance with  
25 clause (ii) and subparagraph (C); and

1 (C) includes recommendations for appro-  
2 priate legislative and regulatory changes based  
3 on the matters described and evaluated under  
4 subparagraph (B).

5 (2) NOTICE AND COMMENT.—

6 (A) IN GENERAL.—In preparing the report  
7 under paragraph (1), the Task Force shall pro-  
8 vide public notice and an opportunity for com-  
9 ment on the matters described in paragraph  
10 (1).

11 (B) REQUIREMENT.—To ensure sufficient  
12 opportunity for timely public input on the mat-  
13 ters described in paragraph (1), the Task Force  
14 shall provide not fewer than 3 opportunities for  
15 public comment under subparagraph (A), in-  
16 cluding—

17 (i) 1 opportunity on the East Coast;

18 (ii) 1 opportunity on the West Coast;

19 and

20 (iii) 1 opportunity in the middle re-  
21 gion of the United States.

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