

113TH CONGRESS
1ST SESSION

H. R. 3132

To ensure orderly conduct of Nuclear Regulatory Commission actions.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2013

Mr. TERRY introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To ensure orderly conduct of Nuclear Regulatory Commission actions.

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 Regulatory
5 Commission Reorganization Plan Codification and Com-
6 plements Act”.

TITLE I—REPLACEMENT OF REORGANIZATION PLAN

3 SEC. 101. GENERAL FUNCTIONS.

4 (a) FUNCTIONS.—Those functions of the Nuclear
5 Regulatory Commission (in this title referred to as the
6 “Commission”) concerned with—

7 (1) policy formulation;

8 (2) rulemaking, as defined in section 553 of
9 title 5 of the United States Code, except that those
10 matters set forth in 553 (a)(2) and (b) which do not
11 pertain to policy formulation orders or adjudications
12 shall be reserved to the Chairman of the Commis-
13 sion;

14 (3) orders and adjudications, as defined in sec-
15 tion 551 (6) and (7) of title 5 of the United States
16 Code; and

17 (4) approving the distribution of appropriated
18 funds according to programs and purposes proposed
19 by the Executive Director for Operations,

20 shall remain vested in the Commission. A majority of the
21 Commission may determine, in an area of doubt, whether
22 any matter, action, question, or area of inquiry pertains
23 to one of these functions. Any member of the Commission
24 may request such a vote. Any member of the Commission
25 may propose a policy matter for consideration by the Com-

1 mission. All members of the Commission shall have full,
2 unfettered, timely, and equal access to information per-
3 taining to its functions. The performance of any portion
4 of these functions may be delegated by the Commission
5 to a member of the Commission, including the Chairman
6 of the Commission (in this title referred to as the “Chair-
7 man”) and to the staff.

8 (b) OFFICERS AND EMPLOYEES.—

9 (1) OFFICERS.—With respect to the following
10 officers or successor officers duly established by stat-
11 ute or by the Commission, the Chairman shall ini-
12 tiate the appointment, subject to the approval of the
13 Commission, and the Chairman or a member of the
14 Commission may initiate an action for removal, sub-
15 ject to the approval of the Commission by majority
16 vote:

17 (A) Executive Director for Operations.

18 (B) Chief and Deputy Chief Financial Of-
19 ficer.

20 (C) General Counsel.

21 (D) Director of the Office of Commission
22 Appellate Adjudication.

23 (E) Secretary of the Commission.

24 (F) Director of the Office of Public Af-
25 fairs.

1 (G) Director of the Office of Congressional
2 Affairs.

3 (H) Director of the Office of International
4 Programs.

5 (I) Chief Administrative Judge and mem-
6 bers of the Atomic Safety and Licensing Board
7 Panel.

8 Any performance evaluation or rating of the officers
9 listed in subparagraphs (A) through (I) shall be de-
10 termined by a majority vote of the members of the
11 Commission.

12 (2) REPLACEMENT OF OFFICERS.—(A) In the
13 event of a vacancy in a position described in para-
14 graph (1), the Chairman may designate an acting
15 officer for a maximum of 60 days, after which any
16 further extension must be approved by the Commis-
17 sion. If, at the end of 60 days, the Commission has
18 not approved the appointment of an officer proposed
19 by the Chairman, or the Chairman has not proposed
20 one, any Commissioner may initiate the appointment
21 subject to approval of the Commission.

22 (B) With respect to the following officers or
23 successor officers duly established by statute or by
24 the Commission, the Chairman, after consultation
25 with the Executive Director for Operations, shall ini-

1 tiate the appointment, subject to the approval of the
2 Commission, and the Chairman, or a member of the
3 Commission may initiate an action for removal, sub-
4 ject to the approval of the Commission by majority
5 vote:

6 (i) Director of the Office of Nuclear Reac-
7 tor Regulation.

8 (ii) Director of the Office of Nuclear Mate-
9 rial Safety and Safeguards.

10 (iii) Director of the Office of Nuclear Reg-
11 ulatory Research.

12 (iv) Director of the Office of Nuclear Secu-
13 rity and Incident Response.

14 (v) Director of the Office of New Reactors.

15 (vi) Director of the Office of Federal and
16 State Materials and Environmental Manage-
17 ment Programs.

18 (vii) Director of the Office of Investiga-
19 tions.

20 (viii) Director of the Office of Enforce-
21 ment.

22 (3) APPOINTMENT OF ADVISORY COMMITTEE
23 ON REACTOR SAFEGUARDS.—The Chairman or a
24 member of the Commission shall initiate the ap-
25 pointment of the Members of the Advisory Com-

1 mittee on Reactor Safeguards, subject to the ap-
2 proval of the Commission. The provisions for ap-
3 pointment of the Chairman of the Advisory Com-
4 mittee on Reactor Safeguards and the term of the
5 members shall not be affected by the provisions of
6 this title.

7 (4) DELEGATION OF STAFF SUPERVISION
8 FUNCTIONS.—The Commission shall delegate the
9 function of appointing, removing, and supervising
10 the staff of the following offices or successor offices
11 to the respective heads of such offices: Executive Di-
12 rector for Operations, General Counsel, Secretary of
13 the Commission, Chief Financial Officer, Office of
14 Commission Appellate Adjudication, Office of Con-
15 gressional Affairs, Office of Public Affairs, and Of-
16 fice of International Programs. The Commission
17 shall delegate the functions of appointing, removing,
18 and supervising the staff of the following panels and
19 committee to the respective Chairmen thereof: Atom-
20 ic Safety and Licensing Board Panel and Advisory
21 Committee on Reactor Safeguards.

22 (c) COMMISSION MEMBER OFFICES.—Each member
23 of the Commission shall appoint, remove, and supervise
24 the personnel employed in his or her immediate office.

1 (d) PERFORMANCE OF FUNCTIONS.—The Commis-
2 sion shall act as provided by section 201(a)(1) of the En-
3 ergy Reorganization Act of 1974 (42 U.S.C. 5841(a)(1))
4 in the performance of its functions as described in sub-
5 sections (a) and (b) of this section.

6 **SEC. 102. CHAIRMAN.**

7 (a) FUNCTIONS.—Except as otherwise provided in
8 section 101, all functions of the Commission shall rest
9 with the Chairman. The Chairman shall be the official
10 spokesman for the Commission and, as such, shall rep-
11 resent the policies determined by a majority of the Com-
12 mission.

13 (b) ADDITIONAL FUNCTIONS.—The Chairman shall
14 also be the principal executive officer of the Commission,
15 and shall be responsible to the Commission for assuring
16 that the Executive Director for Operations and the staff
17 of the Commission (other than the officers and staff re-
18 ferred to in section 101 (b)(4) and (c)) are responsive to
19 the requirements of the Commission in the performance
20 of its functions; shall determine the use and expenditure
21 of funds of the Commission, in accordance with the dis-
22 tribution of appropriated funds according to programs and
23 purposes approved by the Commission; shall present to the
24 Commission for its consideration the proposals set forth
25 in paragraph (3); and shall be responsible for the following

1 functions, which the Chairman shall delegate, subject to
2 the Chairman's direction and supervision, to the Executive
3 Director for Operations unless otherwise provided by this
4 Act:

5 (1) Administrative functions of the Commission.

6 (2) Distribution of business among such per-
7 sonnel and among administrative units and offices of
8 the Commission.

9 (3) Preparation of proposals for the reorganiza-
10 tion of the major offices of the Commission.

11 (4) Appointing and removing, without any fur-
12 ther action by the Commission, all officers and em-
13 ployees under the Commission other than those
14 whose appointment and removal are specifically pro-
15 vided for by section 101 (b) and (c).

16 (c) GOVERNING PRINCIPLES.—

17 (1) IN GENERAL.—The Chairman as principal
18 executive officer and the Executive Director for Op-
19 erations shall be governed by the general policies of
20 the Commission and by such regulatory decisions,
21 findings, and determinations, including those for re-
22 organization proposals, budget revisions, and dis-
23 tribution of appropriated funds, as the Commission
24 may by law, including this title, be authorized to
25 make.

1 (2) FULL AND CURRENT INFORMATION.—The
2 Chairman and the Executive Director for Operations
3 shall have joint responsibility insuring that the Com-
4 mission is fully and currently informed about mat-
5 ters within its functions.

6 (3) FAILURE TO ACT IN ACCORDANCE.—If a
7 majority of Commissioners determine that the Chair-
8 man has not acted in accordance with paragraph (1)
9 or (2), such Commissioners shall provide written no-
10 tice of the determination to the President and pro-
11 vide copies thereof to the Committee on Energy and
12 Commerce of the House of Representatives and the
13 Committee on Environment and Public Works of the
14 Senate.

15 **SEC. 103. EMERGENCY AUTHORITY.**

16 (a) IN GENERAL.—Notwithstanding sections 101 and
17 102, the Chairman is authorized to exercise emergency au-
18 thority described in paragraph (4), subject to the following
19 limitations:

20 (1) The Chairman may not exercise emergency
21 authority unless and until the Chairman declares a
22 specific emergency exists and, not later than 24
23 hours after such declaration, notifies—

24 (A) the Commission, the Committee on
25 Energy and Commerce of the House of Rep-

1 representatives, and the Committee on Environ-
2 ment and Public Works of the Senate, in writ-
3 ing; and

4 (B) the public.

5 (2) The Chairman may only exercise emergency
6 authority in response to—

7 (A) an imminent safety threat pertaining
8 to a facility or materials licensed or regulated
9 by the Commission; or

10 (B) a determination by the Secretary of
11 Homeland Security, the Secretary of Energy,
12 the Secretary of Transportation, the Director of
13 the Federal Bureau of Investigation, the Direc-
14 tor of the Central Intelligence Agency, or the
15 Director of National Intelligence of an immi-
16 nent security threat to a facility or materials li-
17 censed or regulated by the Commission.

18 Where authority is exercised pursuant to this sec-
19 tion, public notification may be delayed provided
20 that the Chairman determines that prior public dis-
21 closure would constitute a risk to public health and
22 safety and so notifies the Commission, the Com-
23 mittee on Energy and Commerce of the House of
24 Representatives, and the Committee on Environment
25 and Public Works of the Senate.

1 (3) The Chairman may only exercise emergency
2 authority for the duration of the emergency or 30
3 days, whichever is less. The Commission may ap-
4 prove extensions of that time. Each extension is lim-
5 ited to 30 days and requires notification of the pub-
6 lic, the Committee on Energy and Commerce of the
7 House of Representatives, and the Committee on
8 Environment and Public Works of the Senate.

9 (4) The Chairman's emergency authority in-
10 cludes the functions of responding to, issuing orders
11 respecting, advising United States civil authorities
12 and the United States public about, and directing
13 and coordinating actions relative to such emergency
14 incident.

15 (b) DELEGATION.—The Chairman may delegate the
16 authority to perform such emergency functions, in whole
17 or in part, to any of the other members of the Commission.
18 Such authority may also be delegated or redelegated, in
19 whole or in part, to the staff of the Commission.

20 (c) CONSULTATION.—To the extent practicable, the
21 Chairman shall consult with the full Commission on any
22 regulatory or policy actions to be taken under an emer-
23 gency. Such consultations shall be exempt from the re-
24 quirements of section 552b of title 5, United States Code

1 (commonly referred to as the “Government in the Sun-
2 shine Act”).

3 (d) GUIDELINES AND NOTICE.—In acting under this
4 section, the Chairman, or other member of the Commis-
5 sion delegated authority under subsection (b), shall con-
6 form to the policy guidelines of the Commission.

7 (e) TERMINATION OF EMERGENCY.—Upon termi-
8 nation of the emergency, the Chairman shall immediately
9 notify the Commission, the public, the Committee on En-
10 ergy and Commerce of the House of Representatives, and
11 the Committee on Environment and Public Works of the
12 Senate.

13 (f) REPORT.—Within 30 days following the conclu-
14 sion of the emergency, the Chairman, or the member of
15 the Commission or member of the staff delegated the
16 emergency functions under subsection (b), shall render a
17 complete report of all actions taken during the emergency,
18 specifically delineating actions taken utilizing the author-
19 ity provided in this section, to the Commission, the Com-
20 mittee on Energy and Commerce of the House of Rep-
21 resentatives, and the Committee on Environment and
22 Public Works of the Senate.

23 (g) COMMISSION PROCEDURES.—Not later than 90
24 days after the date of enactment of this Act, the Commis-
25 sion shall revise its procedures to comply with the require-

1 ments of this section. Such revision shall define the roles
2 of the Commissioners during an emergency, specifying—

3 (1) complete access to records and information
4 relating to actions taken during the emergency;

5 (2) complete access to Commission staff in-
6 volved in the management of the emergency;

7 (3) complete access to the location or locations
8 where decisions are made during the emergency; and

9 (4) participation in decisions that may affect
10 Commission actions and policies beyond the response
11 to a particular emergency to the extent practicable.

12 **SEC. 104. REPORTING.**

13 (a) **DELEGATION; DIRECT COMMUNICATION.**—The
14 Chairman may make such delegations and provide for
15 such reporting as the Chairman deems necessary, subject
16 to provisions of law. Any officer or employee under the
17 Commission may communicate directly to the Commission,
18 or to any member of the Commission, whenever in the view
19 of such officer or employee a critical problem, or matter
20 of public health and safety or common defense and secu-
21 rity, is not being properly addressed.

22 (b) **EXECUTIVE DIRECTOR FOR OPERATIONS.**—The
23 Executive Director for Operations shall report for all mat-
24 ters to the Chairman.

1 (c) FUNCTIONS.—The Directors of Nuclear Reactor
2 Regulations, Nuclear Material Safety and Safeguards, and
3 Nuclear Regulatory Research shall report to the Executive
4 Director for Operations.

5 (d) DIRECT REPORTING.—The heads of the Commis-
6 sion level offices or successor offices, of General Counsel,
7 Secretary of the Commission, Commission Appellate Adju-
8 dication, Congressional Affairs, Public Affairs, Inter-
9 national Programs, Atomic Safety and Licensing Board
10 Panel, and Advisory Committee on Reactor Safeguards
11 shall report directly to the Commission and the Commis-
12 sion shall receive such reports.

13 **SEC. 105. RESCISSION OF REORGANIZATION PLAN AP-**
14 **PROVAL.**

15 Approval of Reorganization Plan No. 1 of 1980 (5
16 U.S.C. App. 1) is rescinded.

17 **TITLE II—MISCELLANEOUS**

18 **SEC. 201. CERTIFICATION OF DOCUMENTS TRANSMITTED**
19 **TO CONGRESS.**

20 A letter or other document transmitted by the Nu-
21 clear Regulatory Commission, on behalf of the full Com-
22 mission, to a member of Congress in his or her capacity
23 as chairman or ranking minority member of a Committee
24 of Congress, shall include a certification that the letter
25 or document is being sent to both the Chairman and rank-

1 ing minority member of that Committee in accordance
2 with established Commission procedures.

3 **SEC. 202. TIME LIMITS FOR COMMISSION REVIEW OF ATOM-**
4 **IC SAFETY AND LICENSING BOARD DECI-**
5 **SIONS.**

6 When reviewing the decisions and actions of the
7 Atomic Safety and Licensing Board, the Commission shall
8 follow the following procedures:

9 (1) Each Commissioner shall vote on the matter
10 not later than 90 days after receipt of final briefs,
11 after which time the Commission shall not further
12 delay a decision. Once a majority position is estab-
13 lished, the Secretary shall notify in writing any
14 Commissioners who have not voted that a majority
15 position has been established. Any Commissioners
16 who have not yet voted shall vote within three days
17 of the Secretary's notice or be considered by the
18 Secretary as not participating.

19 (2) Not later than 30 days after a majority po-
20 sition is established, the Commission shall publish
21 any resulting decision, including adjudicatory orders
22 and direction to agency staff. If a majority position
23 is not established due to a tied vote, not later than
24 30 days after Commission voting is complete, the
25 Commission shall publish any resulting decision, in-

1 including adjudicatory orders and direction to agency
2 staff.

3 **SEC. 203. ALLEGATIONS OF WRONGDOING.**

4 (a) REFERRAL TO INSPECTOR GENERAL.—Not later
5 than 90 days after the date of enactment of this Act, the
6 Nuclear Regulatory Commission shall revise its procedures
7 to ensure that any allegation of wrongdoing on the part
8 of the Chairman of the Commission is immediately re-
9 ferred to the Inspector General of the Commission.

10 (b) SUPERVISION OF INSPECTOR GENERAL.—During
11 the pendency of any investigation by the Inspector General
12 of the Chairman with respect to an allegation described
13 in subsection (a), the Chairman shall delegate responsi-
14 bility for supervising the Inspector General to a member
15 of the Commission other than the Chairman, consistent
16 with the Inspector General Act of 1978.

17 **SEC. 204. APPROVAL OF COMMISSIONER TRAVEL.**

18 The Chairman of the Nuclear Regulatory Commis-
19 sion shall authorize all international travel requested by
20 other members of the Commission for official business un-
21 less the Chairman submits a notice of disapproval to the
22 full Commission specifying the basis for the disapproval.
23 The notice of disapproval shall be submitted within 5 days
24 after the travel is requested or the travel shall be deemed
25 approved.

1 **SEC. 205. IMPLEMENTATION.**

2 Except as otherwise specified in this Act, the Com-
3 mission shall revise its procedures to conform to this Act
4 within 180 days of its date of enactment.

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