

114TH CONGRESS
1ST SESSION

S. 58

To ensure orderly conduct of Nuclear Regulatory Commission actions.

IN THE SENATE OF THE UNITED STATES

JANUARY 7, 2015

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

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Nuclear Regulatory Commission Reorganization Plan
6 Codification and Complements Act”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—REPLACEMENT OF REORGANIZATION PLAN

Sec. 101. General functions.

Sec. 102. Chairman.
 Sec. 103. Emergency authority.
 Sec. 104. Reporting.
 Sec. 105. Rescission of Reorganization Plan approval.

TITLE II—MISCELLANEOUS

Sec. 201. Certification of documents transmitted to Congress.
 Sec. 202. Time limits for Commission review of Atomic Safety and Licensing Board decisions.
 Sec. 203. Allegations of wrongdoing.
 Sec. 204. Approval of travel.
 Sec. 205. Implementation.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (a) COMMISSION.—The term “Commission” means
 4 the Nuclear Regulatory Commission.

5 (b) CHAIRMAN.—The term “Chairman” means the
 6 Chairman of the Commission.

7 **TITLE I—REPLACEMENT OF** 8 **REORGANIZATION PLAN**

9 **SEC. 101. GENERAL FUNCTIONS.**

10 (a) FUNCTIONS VESTED IN THE COMMISSION.—

11 (1) IN GENERAL.—There shall remain vested in
 12 the Commission the functions of the Commission re-
 13 lating to—

14 (A) policy formulation;

15 (B) rulemaking, as described in section
 16 553 of title 5, United States Code, except that
 17 the matters described in subsections (a)(2) and
 18 (b) of that section that do not pertain to policy

1 formulation orders or adjudications shall be re-
 2 served to the Chairman;

3 (C) orders and adjudications, as those
 4 terms are defined in paragraphs (6) and (7) of
 5 section 551 of title 5, United States Code, re-
 6 spectively; and

7 (D) approving the distribution of appro-
 8 priated funds according to programs and pur-
 9 poses proposed by the Executive Director for
 10 Operations.

11 (2) VOTING; POLICY PROPOSALS.—

12 (A) IN GENERAL.—If there is a doubt as
 13 to whether a matter, action, question, or area
 14 of inquiry pertains to one of the functions de-
 15 scribed in paragraph (1), the Commission may
 16 make a determination with respect to the perti-
 17 nence, by majority vote.

18 (B) REQUEST.—Any member of the Com-
 19 mission may—

20 (i) request a vote under subparagraph

21 (A); and

22 (ii) propose a policy matter for consid-
 23 eration by the Commission.

1 (3) ACCESS TO INFORMATION.—All members of
 2 the Commission shall have full, unfettered, timely,
 3 and equal access to information of the Commission.

4 (4) DELEGATION OF FUNCTIONS.—The per-
 5 formance of any portion of the functions described
 6 in paragraph (1) may be delegated by the Commis-
 7 sion to—

8 (A) a member of the Commission (includ-
 9 ing the Chairman); and

10 (B) the staff of the Commission.

11 (b) OFFICERS AND EMPLOYEES.—

12 (1) APPOINTMENT AND REMOVAL OF CERTAIN
 13 OFFICERS.—

14 (A) APPOINTMENT.—The Chairman shall
 15 initiate the appointment, subject to the ap-
 16 proval of the Commission, of the officers or suc-
 17 cessor officers established by law or by the
 18 Commission described in subparagraph (C).

19 (B) REMOVAL.—The Chairman or a mem-
 20 ber of the Commission may initiate an action
 21 for removal, subject to the approval of the Com-
 22 mission, by majority vote, of the officers or suc-
 23 cessor officers established by law or by the
 24 Commission described in subparagraph (C).

1 (C) DESCRIPTION OF OFFICERS.—The offi-
2 cers referred to in subparagraphs (A) and (B)
3 consist of the following:

4 (i) The Executive Director for Oper-
5 ations.

6 (ii) The Chief and Deputy Chief Fi-
7 nancial Officer.

8 (iii) The General Counsel.

9 (iv) The Director of the Office of
10 Commission Appellate Adjudication.

11 (v) The Secretary of the Commission.

12 (vi) The Director of the Office of Pub-
13 lic Affairs.

14 (vii) The Director of the Office of
15 Congressional Affairs.

16 (viii) The Director of the Office of
17 International Programs.

18 (ix) The Chief Administrative Judge
19 and members of the Atomic Safety and Li-
20 censing Board Panel.

21 (D) EVALUATIONS.—Any performance
22 evaluation or rating of the officers described in
23 subparagraph (C) shall be determined by a ma-
24 jority vote of the members of the Commission.

25 (E) REPLACEMENT OF OFFICERS.—

(i) IN GENERAL.—If there is a vacancy in a position described in subparagraph (C), the Chairman may designate an acting officer for a period of 60 days.

(ii) APPROVAL OF EXTENSION REQUIRED.—The Chairman may only extend the initial 60-day period under clause (i) with the approval of the Commission.

(iii) FAILURE TO APPROVE.—If, at the end of the 60-day period under clause (i), the Chairman has not proposed a replacement or the Commission has not approved the appointment of an officer proposed by the Chairman, any member of the Commission may initiate the appointment, subject to approval of the Commission.

(2) APPOINTMENT AND REMOVAL OF OTHER OFFICERS.—

(A) APPOINTMENT.—The Chairman, after consultation with the Executive Director for Operations, shall initiate the appointment, subject to the approval of the Commission, of the officers or successor officers established by law or by the Commission described in subparagraph (C).

1 (B) REMOVAL.—The Chairman or a mem-
2 ber of the Commission may initiate an action
3 for removal, subject to the approval of the Com-
4 mission, by majority vote, of the officers or suc-
5 cessor officers established by law or by the
6 Commission described in subparagraph (C).

7 (C) DESCRIPTION OF OFFICERS.—The offi-
8 cers referred to in subparagraphs (A) and (B)
9 consist of the following:

10 (i) The Director of the Office of Nu-
11 clear Reactor Regulation.

12 (ii) The Director of the Office of Nu-
13 clear Material Safety and Safeguards.

14 (iii) The Director of the Office of Nu-
15 clear Regulatory Research.

16 (iv) The Director of the Office of Nu-
17 clear Security and Incident Response.

18 (v) The Director of the Office of New
19 Reactors.

20 (vi) The Director of the Office of Fed-
21 eral and State Materials and Environ-
22 mental Management Programs.

23 (vii) The Director of the Office of In-
24 vestigations.

1 (viii) The Director of the Office of
2 Enforcement.

3 (3) APPOINTMENT OF ADVISORY COMMITTEE
4 ON REACTOR SAFEGUARDS.—

5 (A) IN GENERAL.—The Chairman or a
6 member of the Commission shall initiate the ap-
7 pointment of a member of the Advisory Com-
8 mittee on Reactor Safeguards, subject to the
9 approval of the Commission.

10 (B) LIMITATION.—Nothing in this Act af-
11 fects—

12 (i) the appointment of the Chairman
13 of the Advisory Committee on Reactor
14 Safeguards; or

15 (ii) the term of the members of Advi-
16 sory Committee on Reactor Safeguards.

17 (4) DELEGATION OF STAFF SUPERVISION
18 FUNCTIONS.—The Commission shall delegate the
19 function of appointing, removing, and supervising
20 the staff of the following offices or successor offices
21 to the respective heads of the offices:

22 (A) Executive Director for Operations.

23 (B) General Counsel.

24 (C) Secretary of the Commission.

25 (D) Chief Financial Officer.

1 (E) The Office of Commission Appellate
2 Adjudication.

3 (F) The Office of Congressional Affairs.

4 (G) The Office of Public Affairs.

5 (H) The Office of International Programs.

6 (5) DELEGATION OF STAFF OF PANELS AND
7 COMMITTEES.—The Commission shall delegate the
8 functions of appointing, removing, and supervising
9 the staff of the following panels and committee to
10 the respective Chair of the panel or committee:

11 (A) The Atomic Safety and Licensing
12 Board Panel.

13 (B) The Advisory Committee on Reactor
14 Safeguards.

15 (c) COMMISSION MEMBER OFFICES.—Each member
16 of the Commission shall continue to appoint, remove, and
17 supervise the personnel employed in the immediate office
18 of the member.

19 (d) PERFORMANCE OF FUNCTIONS.—Section
20 201(a)(1) of the Energy Reorganization Act of 1974 (42
21 U.S.C. 5841(a)(1)) shall apply to the Chairman in the
22 performance of the functions of the Chairman as described
23 in subsections (a) and (b).

1 **SEC. 102. CHAIRMAN.**

2 (a) TRANSFER OF FUNCTIONS.—Any function of the
3 Commission not described in section 101(a)(1) is trans-
4 ferred to the Chairman.

5 (b) DUTIES.—The Chairman shall—

6 (1) be the official spokesman for the Commis-
7 sion, which includes representing the policies estab-
8 lished by a majority of the members of the Commis-
9 sion;

10 (2) be the principal executive officer of the
11 Commission;

12 (3) be responsible to the Commission for ensur-
13 ing that the Executive Director for Operations and
14 the staff of the Commission (other than the officers
15 and staff referred to in subsections (b)(4) and (c) of
16 section 101) are responsive to the requirements of
17 the Commission in the performance of the functions
18 of the Commission;

19 (4) determine the use and expenditure of funds
20 of the Commission, in accordance with the distribu-
21 tion of appropriated funds according to programs
22 and purposes approved by the Commission;

23 (5) present to the Commission, for consider-
24 ation by the Commission, the proposals and esti-
25 mates prepared under paragraph (6)(C); and

1 (6) be responsible for (which the Chairman
2 shall delegate, subject to direction and supervision
3 by the Chairman, to the Executive Director for Op-
4 erations, unless otherwise provided by this Act)—

5 (A) administrative functions of the Com-
6 mission;

7 (B) distribution of business among per-
8 sonnel, administrative units, and offices of the
9 Commission;

10 (C) preparation of proposals for the reor-
11 ganization of the major offices of the Commis-
12 sion; and

13 (D) appointing and removing, without any
14 further action by the Commission, all officers
15 and employees under the Commission other
16 than the offices and employees, the appoint-
17 ment and removal of which are specifically pro-
18 vided for by subsections (b)(4) and (c) of sec-
19 tion 101.

20 (c) GOVERNING PRINCIPLES.—

21 (1) IN GENERAL.—The Chairman (as principal
22 executive officer) and the Executive Director for Op-
23 erations, shall be governed by—

24 (A) the general policies of the Commission;
25 and

1 (B) any regulatory decisions, findings, and
2 determinations (including decisions, findings,
3 and determinations for reorganization pro-
4 posals, budget revisions, and the distribution of
5 appropriated funds) as the Commission may by
6 law be authorized to make.

7 (2) FULL AND CURRENT INFORMATION.—The
8 Chairman and the Executive Director for Operations
9 shall be jointly responsible for ensuring that the
10 Commission is fully and currently informed about
11 matters within the functions of the Commission.

12 (3) FAILURE TO ACT IN ACCORDANCE.—If a
13 majority of the members of the Commission deter-
14 mine that the Chairman has not acted in accordance
15 with paragraph (1) or (2), the members of the Com-
16 mission shall—

17 (A) submit to the President written notice
18 of the determination; and

19 (B) transmit to the Committee on Energy
20 and Commerce of the House of Representatives
21 and the Committee on Environment and Public
22 Works of the Senate copies of the notice sub-
23 mitted under subparagraph (A).

1 **SEC. 103. EMERGENCY AUTHORITY.**

2 (a) IN GENERAL.—Notwithstanding sections 101 and
 3 102 and subject to subsection (b), the Chairman is author-
 4 ized to exercise emergency authority of the Chairman in
 5 responding to, issuing orders respecting, advising United
 6 States civil authorities and the United States public about,
 7 and directing and coordinating actions relating to an
 8 emergency incident.

9 (b) LIMITATIONS.—

10 (1) EMERGENCY DECLARATION REQUIRED.—

11 (A) IN GENERAL.—The Chairman may not
 12 exercise emergency authority under subsection
 13 (a) until—

14 (i) the Chairman issues a declaration
 15 that a specific emergency exists; and

16 (ii) not later than 24 hours after the
 17 issuance of a declaration under subpara-
 18 graph (A), the Chairman provides notice of
 19 the declaration—

20 (I) in writing to—

21 (aa) the Commission;

22 (bb) the Committee on En-
 23 ergy and Commerce of the House
 24 of Representatives; and

1 (cc) the Committee on Envi-
2 ronment and Public Works of the
3 Senate; and

4 (II) except as provided in sub-
5 paragraph (B), to the public.

6 (B) PUBLIC NOTIFICATION.—Notwith-
7 standing subclause (II) of subparagraph (A)(ii),
8 public notification of a declaration under that
9 subclause may be delayed beyond the 24-hour
10 period specified in subparagraph (A)(ii) if the
11 Chairman—

12 (i) determines that disclosing the dec-
13 laration to the public at that time would
14 constitute a risk to public health or safety;
15 and

16 (ii) submits notice of the determina-
17 tion under clause (i) to—

18 (I) the Commission;

19 (II) the Committee on Energy
20 and Commerce of the House of Rep-
21 resentatives; and

22 (III) the Committee on Environ-
23 ment and Public Works of the Senate.

1 (2) AUTHORIZED EMERGENCIES.—The Chair-
 2 man may only exercise emergency authority under
 3 subsection (a) in response to—

4 (A) an imminent safety threat pertaining
 5 to a facility or materials licensed or regulated
 6 by the Commission; or

7 (B) a determination of an imminent secu-
 8 rity threat to a facility or materials licensed or
 9 regulated by the Commission is made by—

10 (i) the Secretary of Homeland Secu-
 11 rity;

12 (ii) the Secretary of Energy;

13 (iii) the Secretary of Transportation;

14 (iv) the Director of the Federal Bu-
 15 reau of Investigation;

16 (v) the Director of the Central Intel-
 17 ligence Agency; or

18 (vi) the Director of National Intel-
 19 ligence.

20 (3) DURATION.—

21 (A) IN GENERAL.—The Chairman may
 22 only exercise emergency authority under sub-
 23 section (a) for the fewer of—

24 (i) the duration of the emergency; or

25 (ii) 30 days.

1 (B) EXTENSION.—The initial period estab-
2 lished under subparagraph (A) may be extended
3 by 30 days if the Commission—

4 (i) approves the extension; and

5 (ii) submits notice of the extension
6 to—

7 (I) the public;

8 (II) the Committee on Energy
9 and Commerce of the House of Rep-
10 resentatives; and

11 (III) the Committee on Environ-
12 ment and Public Works of the Senate.

13 (c) DELEGATION.—

14 (1) TO MEMBERS.—The Chairman may dele-
15 gate the authority to perform the emergency func-
16 tions described in subsection (a), in whole or in part,
17 to any of the other members of the Commission.

18 (2) TO STAFF.—The authority to perform the
19 emergency functions described in subsection (a) may
20 be delegated or redelegated, in whole or in part, to
21 the staff of the Commission.

22 (d) CONSULTATION.—

23 (1) IN GENERAL.—To the maximum extent
24 practicable, the Chairman shall consult with the full
25 Commission on any regulatory or policy actions

1 taken under the emergency authority provided under
2 this section.

3 (2) EXEMPTION.—A consultation under para-
4 graph (1) shall be exempt from the requirements of
5 section 552b of title 5, United States Code.

6 (e) GUIDELINES AND NOTICE.—In acting under this
7 section, the actions of the Chairman, or other member of
8 the Commission delegated authority under subsection (c),
9 shall conform to the policy guidelines of the Commission.

10 (f) TERMINATION OF EMERGENCY.—On termination
11 of the emergency, the Chairman shall immediately submit
12 notice of the termination to—

13 (1) the Commission;

14 (2) the public;

15 (3) the Committee on Energy and Commerce of
16 the House of Representatives; and

17 (4) the Committee on Environment and Public
18 Works of the Senate.

19 (g) REPORT.—Not later than 30 days after the date
20 on which the emergency is terminated under subsection
21 (f), the Chairman, or the member of the Commission or
22 staff member of the Commission delegated the emergency
23 functions under subsection (c), shall submit a report that
24 describes all actions taken during the emergency, includ-

1 ing a description of any actions taken using the authority
 2 provided by this section, to—

3 (1) the Commission;

4 (2) the Committee on Energy and Commerce of
 5 the House of Representatives; and

6 (3) the Committee on Environment and Public
 7 Works of the Senate.

8 (h) COMMISSION PROCEDURES.—

9 (1) IN GENERAL.—Not later than 90 days after
 10 the date of enactment of this Act, the Commission
 11 shall revise the procedures of the Commission to
 12 comply with the requirements of this section.

13 (2) REQUIREMENTS.—The revision under para-
 14 graph (1) shall define the roles of the members of
 15 the Commission during an emergency, including pro-
 16 viding for—

17 (A) complete access to—

18 (i) records and information relating to
 19 actions taken during the emergency;

20 (ii) Commission staff involved in the
 21 management of the emergency; and

22 (iii) one or more locations at which
 23 decisions are made during the emergency;
 24 and

1 (B) to the extent practicable, participation
2 in decisions that may affect Commission actions
3 and policies beyond the response to a particular
4 emergency.

5 **SEC. 104. REPORTING.**

6 (a) DELEGATION; REPORTING.—

7 (1) IN GENERAL.—The Chairman may make
8 any delegations and provide for any reporting that
9 the Chairman determines to be necessary, subject to
10 applicable provisions of law.

11 (2) DIRECT COMMUNICATION.—Any officer or
12 employee under the Commission may communicate
13 directly to the Commission, or to any member of the
14 Commission, if the officer or employee determines
15 that a critical problem or matter of public health,
16 public safety, or common defense and security is not
17 being properly addressed.

18 (b) EXECUTIVE DIRECTOR FOR OPERATIONS.—

19 (1) IN GENERAL.—The Executive Director for
20 Operations shall report all matters to the Chairman.

21 (2) SUBMISSION OF REPORTS TO EXECUTIVE
22 DIRECTOR FOR OPERATIONS.—The Directors of Nu-
23 clear Reactor Regulations, Nuclear Material Safety
24 and Safeguards, and Nuclear Regulatory Research

1 shall report to the Executive Director for Oper-
 2 ations.

3 (c) DIRECT REPORTING.—

4 (1) SUBMISSION OF REPORTS.—The heads of
 5 the Commission-level offices or successor offices of
 6 the following offices shall report directly to the Com-
 7 mission:

8 (A) The General Counsel.

9 (B) The Secretary of the Commission.

10 (C) The Office of Commission Appellate
 11 Adjudication.

12 (D) The Office of Congressional Affairs.

13 (E) The Office of Public Affairs.

14 (F) The Office of International Programs.

15 (G) The Atomic Safety and Licensing
 16 Board Panel.

17 (H) The Advisory Committee on Reactor
 18 Safeguards.

19 (2) RECEIPT OF REPORTS.—The Commission
 20 shall receive the reports submitted under paragraph
 21 (1).

22 **SEC. 105. RESCISSION OF REORGANIZATION PLAN AP-**
 23 **PROVAL.**

24 The approval of Reorganization Plan No. 1 of 1980
 25 (45 Fed. Reg. 40561) (adopted pursuant to the Reorga-

1 nization Act Amendments of 1984 (5 U.S.C. 901 et seq.))
 2 is rescinded.

3 **TITLE II—MISCELLANEOUS**

4 **SEC. 201. CERTIFICATION OF DOCUMENTS TRANSMITTED** 5 **TO CONGRESS.**

6 A letter or other document transmitted by the Com-
 7 mission, on behalf of the full Commission, to a member
 8 of Congress in the capacity of the member as Chairman
 9 or Ranking Minority Member of a Committee of Congress,
 10 shall include a certification that the letter or document
 11 is being sent to the Chairman and Ranking Minority Mem-
 12 ber of that Committee, in accordance with established
 13 Commission procedures.

14 **SEC. 202. TIME LIMITS FOR COMMISSION REVIEW OF ATOM-** 15 **IC SAFETY AND LICENSING BOARD DEC-** 16 **SIONS.**

17 (a) IN GENERAL.—In reviewing the decisions and ac-
 18 tions of the Atomic Safety and Licensing Board, not later
 19 than 90 days after the date on which the Commission re-
 20 ceives final briefs relating to the decision or action, each
 21 member of the Commission shall vote on the matter under
 22 review.

23 (b) NOTIFICATION OF NONVOTERS.—Once a major-
 24 ity position of the members of the Commission has been
 25 established by members voting under subsection (a), the

1 Secretary shall notify in writing any member of the Com-
2 mission that has not voted in accordance with that sub-
3 section that a majority position has been established with
4 respect to the matter under review.

5 (c) DEADLINE FOR VOTING.—A member of the Com-
6 mission that receives notice under subsection (b)—

7 (1) shall have within 3 days of the date of the
8 notice to vote on the matter under review; and

9 (2) shall be considered by the Secretary as not
10 participating in the vote if the member does not vote
11 by the deadline specified in paragraph (1).

12 (d) PUBLICATION.—The Commission shall publish
13 any resulting decision of the Commission under this sec-
14 tion, including adjudicatory orders and direction to agency
15 staff—

16 (1) if a majority position is established with re-
17 spect to the matter under review under this section,
18 not later than 30 days after the date on which the
19 majority position is established; or

20 (2) if a majority position is not established be-
21 cause of a tie vote of the participating members of
22 the Commission, not later than 30 days after the
23 date on which the voting is completed in accordance
24 with this section.

1 **SEC. 203. ALLEGATIONS OF WRONGDOING.**

2 (a) REFERRAL TO INSPECTOR GENERAL.—Not later
3 than 90 days after the date of enactment of this Act, the
4 Commission shall revise the procedures of the Commission
5 to ensure that any allegation of wrongdoing on the part
6 of the Chairman is immediately referred to the Inspector
7 General of the Commission.

8 (b) SUPERVISION OF INSPECTOR GENERAL.—During
9 any period in which an investigation by the Inspector Gen-
10 eral of the Chairman is pending with respect to an allega-
11 tion described in subsection (a), the Chairman shall dele-
12 gate responsibility for supervising the Inspector General
13 to a member of the Commission other than the Chairman,
14 consistent with the Inspector General Act of 1978 (5
15 U.S.C. App.).

16 **SEC. 204. APPROVAL OF TRAVEL.**

17 (a) AUTHORIZATION BY CHAIRMAN.—The Chairman
18 shall authorize all international travel requested by other
19 members of the Commission for official business unless
20 the Chairman submits a notice of disapproval to the full
21 Commission specifying the basis for the disapproval by
22 that is 5 days after the date on which the request is sub-
23 mitted to the Chairman.

24 (b) REQUEST CONSIDERED TO BE APPROVED.—If
25 the Chairman fails to submit to the Commission the notice

1 of disapproval by the deadline described in subsection (a),
2 the travel shall be considered to be approved.

3 **SEC. 205. IMPLEMENTATION.**

4 Except as otherwise specified in this Act, not later
5 than 180 days after the date of enactment of this Act,
6 the Commission shall revise the procedures of the Com-
7 mission to conform the procedures with this Act.

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