A BILL

To ensure orderly conduct of Nuclear Regulatory Commission actions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Nuclear Regulatory Commission Reorganization Plan Codification and Complements Act”.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2013

Mr. TERRY introduced the following bill; which was referred to the Committee on Energy and Commerce
TITLE I—REPLACEMENT OF
REORGANIZATION PLAN

SEC. 101. GENERAL FUNCTIONS.

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

(1) policy formulation;

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

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

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

shall remain vested in the Commission. A majority of the
Commission may determine, in an area of doubt, whether
any matter, action, question, or area of inquiry pertains
to one of these functions. Any member of the Commission
may request such a vote. Any member of the Commission
may propose a policy matter for consideration by the Com-
mission. All members of the Commission shall have full, unfettered, timely, and equal access to information pertaining to its functions. The performance of any portion of these functions may be delegated by the Commission to a member of the Commission, including the Chairman of the Commission (in this title referred to as the “Chairman”) and to the staff.

(b) Officers and Employees.—

(1) Officers.—With respect to the following officers or successor officers duly established by statute or by the Commission, the Chairman shall initiate the appointment, subject to the approval of the Commission, and the Chairman or a member of the Commission may initiate an action for removal, subject to the approval of the Commission by majority vote:

(A) Executive Director for Operations.

(B) Chief and Deputy Chief Financial Officer.

(C) General Counsel.

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

(E) Secretary of the Commission.

(F) Director of the Office of Public Affairs.
(G) Director of the Office of Congressional Affairs.

(H) Director of the Office of International Programs.

(I) Chief Administrative Judge and members of the Atomic Safety and Licensing Board Panel.

Any performance evaluation or rating of the officers listed in subparagraphs (A) through (I) shall be determined by a majority vote of the members of the Commission.

(2) Replacement of Officers.—(A) In the event of a vacancy in a position described in paragraph (1), the Chairman may designate an acting officer for a maximum of 60 days, after which any further extension must be approved by the Commission. If, at the end of 60 days, the Commission has not approved the appointment of an officer proposed by the Chairman, or the Chairman has not proposed one, any Commissioner may initiate the appointment subject to approval of the Commission.

(B) With respect to the following officers or successor officers duly established by statute or by the Commission, the Chairman, after consultation with the Executive Director for Operations, shall ini-
tiate the appointment, subject to the approval of the Commission, and the Chairman, or a member of the Commission may initiate an action for removal, subject to the approval of the Commission by majority vote:

(i) Director of the Office of Nuclear Reactor Regulation.

(ii) Director of the Office of Nuclear Material Safety and Safeguards.

(iii) Director of the Office of Nuclear Regulatory Research.

(iv) Director of the Office of Nuclear Security and Incident Response.

(v) Director of the Office of New Reactors.

(vi) Director of the Office of Federal and State Materials and Environmental Management Programs.

(vii) Director of the Office of Investigations.

(viii) Director of the Office of Enforcement.

(3) APPOINTMENT OF ADVISORY COMMITTEE ON REACTOR SAFEGUARDS.—The Chairman or a member of the Commission shall initiate the appointment of the Members of the Advisory Com-
mittee on Reactor Safeguards, subject to the ap-
approval of the Commission. The provisions for ap-
pointment of the Chairman of the Advisory Com-
mittee on Reactor Safeguards and the term of the
members shall not be affected by the provisions of
this title.

(4) **DELEGATION OF STAFF SUPERVISION**

FUNCTIONS.—The Commission shall delegate the
function of appointing, removing, and supervising
the staff of the following offices or successor offices
to the respective heads of such offices: Executive Di-
rector for Operations, General Counsel, Secretary of
the Commission, Chief Financial Officer, Office of
Commission Appellate Adjudication, Office of Con-
gressional Affairs, Office of Public Affairs, and Of-
office of International Programs. The Commission
shall delegate the functions of appointing, removing,
and supervising the staff of the following panels and
committee to the respective Chairmen thereof: Atom-
ic Safety and Licensing Board Panel and Advisory
Committee on Reactor Safeguards.

(c) **COMMISSION MEMBER OFFICES.**—Each member
of the Commission shall appoint, remove, and supervise
the personnel employed in his or her immediate office.
(d) PERFORMANCE OF FUNCTIONS.—The Commission shall act as provided by section 201(a)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5841(a)(1)) in the performance of its functions as described in sub-sections (a) and (b) of this section.

SEC. 102. CHAIRMAN.

(a) FUNCTIONS.—Except as otherwise provided in section 101, all functions of the Commission shall rest with the Chairman. The Chairman shall be the official spokesman for the Commission and, as such, shall represent the policies determined by a majority of the Commission.

(b) ADDITIONAL FUNCTIONS.—The Chairman shall also be the principal executive officer of the Commission, and shall be responsible to the Commission for assuring that the Executive Director for Operations and the staff of the Commission (other than the officers and staff referred to in section 101 (b)(4) and (c)) are responsive to the requirements of the Commission in the performance of its functions; shall determine the use and expenditure of funds of the Commission, in accordance with the distribution of appropriated funds according to programs and purposes approved by the Commission; shall present to the Commission for its consideration the proposals set forth in paragraph (3); and shall be responsible for the following
functions, which the Chairman shall delegate, subject to
the Chairman’s direction and supervision, to the Executive
Director for Operations unless otherwise provided by this
Act:

(1) Administrative functions of the Commission.

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

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

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

(e) Governing Principles.—

(1) In general.—The Chairman as principal
executive officer and the Executive Director for Op-
erations shall be governed by the general policies of
the Commission and by such regulatory decisions,
findings, and determinations, including those for re-
organization proposals, budget revisions, and dis-
tribution of appropriated funds, as the Commission
may by law, including this title, be authorized to
make.
(2) **Full and Current Information.**—The Chairman and the Executive Director for Operations shall have joint responsibility insuring that the Commission is fully and currently informed about matters within its functions.

(3) **Failure to Act in Accordance.**—If a majority of Commissioners determine that the Chairman has not acted in accordance with paragraph (1) or (2), such Commissioners shall provide written notice of the determination to the President and provide copies thereof to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate.

**SEC. 103. EMERGENCY AUTHORITY.**

(a) **In General.**—Notwithstanding sections 101 and 102, the Chairman is authorized to exercise emergency authority described in paragraph (4), subject to the following limitations:

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

(A) the Commission, the Committee on Energy and Commerce of the House of Rep-
resentatives, and the Committee on Environment and Public Works of the Senate, in writing; and

(B) the public.

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

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

(B) a determination by the Secretary of Homeland Security, the Secretary of Energy, the Secretary of Transportation, the Director of the Federal Bureau of Investigation, the Director of the Central Intelligence Agency, or the Director of National Intelligence of an imminent security threat to a facility or materials licensed or regulated by the Commission.

Where authority is exercised pursuant to this section, public notification may be delayed provided that the Chairman determines that prior public disclosure would constitute a risk to public health and safety and so notifies the Commission, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate.
(3) The Chairman may only exercise emergency authority for the duration of the emergency or 30 days, whichever is less. The Commission may approve extensions of that time. Each extension is limited to 30 days and requires notification of the public, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate.

(4) The Chairman’s emergency authority includes the functions of responding to, issuing orders respecting, advising United States civil authorities and the United States public about, and directing and coordinating actions relative to such emergency incident.

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

(c) CONSULTATION.—To the extent practicable, the Chairman shall consult with the full Commission on any regulatory or policy actions to be taken under an emergency. Such consultations shall be exempt from the requirements of section 552b of title 5, United States Code
(commonly referred to as the “Government in the Sunshine Act”).

(d) GUIDELINES AND NOTICE.—In acting under this section, the Chairman, or other member of the Commission delegated authority under subsection (b), shall conform to the policy guidelines of the Commission.

(e) TERMINATION OF EMERGENCY.—Upon termination of the emergency, the Chairman shall immediately notify the Commission, the public, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate.

(f) REPORT.—Within 30 days following the conclusion of the emergency, the Chairman, or the member of the Commission or member of the staff delegated the emergency functions under subsection (b), shall render a complete report of all actions taken during the emergency, specifically delineating actions taken utilizing the authority provided in this section, to the Commission, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate.

(g) COMMISSION PROCEDURES.—Not later than 90 days after the date of enactment of this Act, the Commission shall revise its procedures to comply with the require-
ments of this section. Such revision shall define the roles of the Commissioners during an emergency, specifying—

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

(2) complete access to Commission staff involved in the management of the emergency;

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

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

SEC. 104. REPORTING.

(a) Delegation; Direct Communication.—The Chairman may make such delegations and provide for such reporting as the Chairman deems necessary, subject to provisions of law. Any officer or employee under the Commission may communicate directly to the Commission, or to any member of the Commission, whenever in the view of such officer or employee a critical problem, or matter of public health and safety or common defense and security, is not being properly addressed.

(b) Executive Director for Operations.—The Executive Director for Operations shall report for all matters to the Chairman.
(c) FUNCTIONS.—The Directors of Nuclear Reactor Regulations, Nuclear Material Safety and Safeguards, and Nuclear Regulatory Research shall report to the Executive Director for Operations.

(d) DIRECT REPORTING.—The heads of the Commission level offices or successor offices, of General Counsel, Secretary of the Commission, Commission Appellate Adjudication, Congressional Affairs, Public Affairs, International Programs, Atomic Safety and Licensing Board Panel, and Advisory Committee on Reactor Safeguards shall report directly to the Commission and the Commission shall receive such reports.

SEC. 105. RESCISSION OF REORGANIZATION PLAN APPROVAL.

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

TITLE II—MISCELLANEOUS

SEC. 201. CERTIFICATION OF DOCUMENTS TRANSMITTED TO CONGRESS.

A letter or other document transmitted by the Nuclear Regulatory Commission, on behalf of the full Commission, to a member of Congress in his or her capacity as chairman or ranking minority member of a Committee of Congress, shall include a certification that the letter or document is being sent to both the Chairman and rank-
ing minority member of that Committee in accordance
with established Commission procedures.

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

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

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

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

SEC. 203. ALLEGATIONS OF WRONGDOING.

(a) Referral to Inspector General.—Not later than 90 days after the date of enactment of this Act, the Nuclear Regulatory Commission shall revise its procedures to ensure that any allegation of wrongdoing on the part of the Chairman of the Commission is immediately referred to the Inspector General of the Commission.

(b) Supervision of Inspector General.—During the pendency of any investigation by the Inspector General of the Chairman with respect to an allegation described in subsection (a), the Chairman shall delegate responsibility for supervising the Inspector General to a member of the Commission other than the Chairman, consistent with the Inspector General Act of 1978.

SEC. 204. APPROVAL OF COMMISSIONER TRAVEL.

The Chairman of the Nuclear Regulatory Commission shall authorize all international travel requested by other members of the Commission for official business unless the Chairman submits a notice of disapproval to the full Commission specifying the basis for the disapproval. The notice of disapproval shall be submitted within 5 days after the travel is requested or the travel shall be deemed approved.
SEC. 205. IMPLEMENTATION.

Except as otherwise specified in this Act, the Commission shall revise its procedures to conform to this Act within 180 days of its date of enactment.