S. 1519

To ensure orderly conduct of Nuclear Regulatory Commission actions.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2013

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.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

1. Short title; table of contents.
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. 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.

TITLE I—replacement of

Reorganization Plan

SEC. 101. GENERAL FUNCTIONS.

(a) FUNCTIONS VESTED IN THE COMMISSION.—

(1) IN GENERAL.—There shall remain vested in
the Commission the functions of the Commission rel-
ating to—

(A) policy formulation;

(B) rulemaking, as described in section
553 of title 5, United States Code, except that
the matters described in subsections (a)(2) and
(b) of that section that do not pertain to policy
formulation orders or adjudications shall be reserved to the Chairman;

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

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

(2) VOTING; POLICY PROPOSALS.—

(A) IN GENERAL.—If there is a doubt as to whether a matter, action, question, or area of inquiry pertains to one of the functions described in paragraph (1), the Commission may make a determination with respect to the pertinence, by majority vote.

(B) REQUEST.—Any member of the Commission may—

(i) request a vote under subparagraph (A); and

(ii) propose a policy matter for consideration by the Commission.
(3) Access to Information.—All members of the Commission shall have full, unfettered, timely, and equal access to information of the Commission.

(4) Delegation of Functions.—The performance of any portion of the functions described in paragraph (1) may be delegated by the Commission to—

(A) a member of the Commission (including the Chairman); and

(B) the staff of the Commission.

(b) Officers and Employees.—

(1) Appointment and Removal of Certain Officers.—

(A) Appointment.—The Chairman 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).

(B) Removal.—The Chairman or a member of the Commission may initiate an action for removal, subject to the approval of the Commission, by majority vote, of the officers or successor officers established by law or by the Commission described in subparagraph (C).
(C) DESCRIPTION OF OFFICERS.—The officers referred to in subparagraphs (A) and (B) consist of the following:

   (i) The Executive Director for Operations.

   (ii) The Chief and Deputy Chief Financial Officer.

   (iii) The General Counsel.

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

   (v) The Secretary of the Commission.

   (vi) The Director of the Office of Public Affairs.

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

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

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

(D) EVALUATIONS.—Any performance evaluation or rating of the officers described in subparagraph (C) shall be determined by a majority vote of the members of the Commission.

(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).
(B) REMOVAL.—The Chairman or a member of the Commission may initiate an action for removal, subject to the approval of the Commission, by majority vote, of the officers or successor officers established by law or by the Commission described in subparagraph (C).

(C) DESCRIPTION OF OFFICERS.—The officers referred to in subparagraphs (A) and (B) consist of the following:

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

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

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

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

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

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

(vii) The Director of the Office of Investigations.
(viii) The Director of the Office of Enforcement.

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

(A) IN GENERAL.—The Chairman or a member of the Commission shall initiate the appointment of a member of the Advisory Committee on Reactor Safeguards, subject to the approval of the Commission.

(B) LIMITATION.—Nothing in this Act affects—

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

(ii) the term of the members of Advisory Committee on Reactor Safeguards.

(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 the offices:

(A) Executive Director for Operations.

(B) General Counsel.

(C) Secretary of the Commission.

(D) Chief Financial Officer.
(E) The Office of Commission Appellate
     Adjudication.

(F) The Office of Congressional Affairs.

(G) The Office of Public Affairs.

(H) The Office of International Programs.

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

    (A) The Atomic Safety and Licensing
        Board Panel.

    (B) The Advisory Committee on Reactor
        Safeguards.

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

(d) PERFORMANCE OF FUNCTIONS.—Section
    201(a)(1) of the Energy Reorganization Act of 1974 (42
    U.S.C. 5841(a)(1)) shall apply to the Chairman in the
    performance of the functions of the Chairman as described
    in subsections (a) and (b).
SEC. 102. CHAIRMAN.

(a) Transfer of Functions.—Any function of the Commission not described in section 101(a)(1) is transferred to the Chairman.

(b) Duties.—The Chairman shall—

(1) be the official spokesman for the Commission, which includes representing the policies established by a majority of the members of the Commission;

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

(3) be responsible to the Commission for ensuring that the Executive Director for Operations and the staff of the Commission (other than the officers and staff referred to in subsections (b)(4) and (c) of section 101) are responsive to the requirements of the Commission in the performance of the functions of the Commission;

(4) 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;

(5) present to the Commission, for consideration by the Commission, the proposals and estimates prepared under paragraph (6)(C); and
(6) be responsible for (which the Chairman shall delegate, subject to direction and supervision by the Chairman, to the Executive Director for Operations, unless otherwise provided by this Act)—

(A) administrative functions of the Commission;

(B) distribution of business among personnel, administrative units, and offices of the Commission;

(C) preparation of proposals for the reorganization of the major offices of the Commission; and

(D) appointing and removing, without any further action by the Commission, all officers and employees under the Commission other than the offices and employees, the appointment and removal of which are specifically provided for by subsections (b)(4) and (c) of section 101.

(c) GOVERNING PRINCIPLES.—

(1) IN GENERAL.—The Chairman (as principal executive officer) and the Executive Director for Operations, shall be governed by—

(A) the general policies of the Commission; and
(B) any regulatory decisions, findings, and
determinations (including decisions, findings, and
determinations for reorganization propos-
posals, budget revisions, and the distribution of
appropriated funds) as the Commission may by
law be authorized to make.

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

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

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

(B) transmit to the Committee on Energy
and Commerce of the House of Representatives
and the Committee on Environment and Public
Works of the Senate copies of the notice sub-
mitted under subparagraph (A).
SEC. 103. EMERGENCY AUTHORITY.

(a) In General.—Notwithstanding sections 101 and 102 and subject to subsection (b), the Chairman is authorized to exercise emergency authority of the Chairman in responding to, issuing orders respecting, advising United States civil authorities and the United States public about, and directing and coordinating actions relating to an emergency incident.

(b) Limitations.—

(1) Emergency Declaration Required.—

(A) In General.—The Chairman may not exercise emergency authority under subsection (a) until—

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

(ii) not later than 24 hours after the issuance of a declaration under subparagraph (A), the Chairman provides notice of the declaration—

(I) in writing to—

(aa) the Commission;

(bb) the Committee on Energy and Commerce of the House of Representatives; and
(cc) the Committee on Environment and Public Works of the Senate; and

(II) except as provided in subparagraph (B), to the public.

(B) PUBLIC NOTIFICATION.—Notwithstanding subclause (II) of subparagraph (A)(ii), public notification of a declaration under that subclause may be delayed beyond the 24-hour period specified in subparagraph (A)(ii) if the Chairman—

(i) determines that disclosing the declaration to the public at that time would constitute a risk to public health or safety; and

(ii) submits notice of the determination under clause (i) to—

(I) the Commission;

(II) the Committee on Energy and Commerce of the House of Representatives; and

(III) the Committee on Environment and Public Works of the Senate.
(2) AUTHORIZED EMERGENCIES.—The Chairman may only exercise emergency authority under subsection (a) in response to—

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

(B) a determination of an imminent security threat to a facility or materials licensed or regulated by the Commission is made by—

(i) the Secretary of Homeland Security;

(ii) the Secretary of Energy;

(iii) the Secretary of Transportation;

(iv) the Director of the Federal Bureau of Investigation;

(v) the Director of the Central Intelligence Agency; or

(vi) the Director of National Intelligence.

(3) DURATION.—

(A) IN GENERAL.—The Chairman may only exercise emergency authority under subsection (a) for the fewer of—

(i) the duration of the emergency; or

(ii) 30 days.
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(B) EXTENSION.—The initial period established under subparagraph (A) may be extended by 30 days if the Commission—

(i) approves the extension; and

(ii) submits notice of the extension to—

(I) the public;

(II) the Committee on Energy and Commerce of the House of Representatives; and

(III) the Committee on Environment and Public Works of the Senate.

c) DELEGATION.—

(1) TO MEMBERS.—The Chairman may delegate the authority to perform the emergency functions described in subsection (a), in whole or in part, to any of the other members of the Commission.

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

d) CONSULTATION.—

(1) IN GENERAL.—To the maximum extent practicable, the Chairman shall consult with the full Commission on any regulatory or policy actions
taken under the emergency authority provided under this section.

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

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

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

(1) the Commission;

(2) the public;

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

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

(g) REPORT.—Not later than 30 days after the date on which the emergency is terminated under subsection (f), the Chairman, or the member of the Commission or staff member of the Commission delegated the emergency functions under subsection (c), shall submit a report that describes all actions taken during the emergency, includ-
ing a description of any actions taken using the authority
provided by this section, to—

(1) the Commission;

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

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

(h) COMMISSION PROCEDURES.—

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

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

(A) complete access to—

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

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

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

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

SEC. 104. REPORTING.

(a) Delegation; Reporting.—

(1) In general.—The Chairman may make any delegations and provide for any reporting that the Chairman determines to be necessary, subject to applicable provisions of law.

(2) Direct communication.—Any officer or employee under the Commission may communicate directly to the Commission, or to any member of the Commission, if the officer or employee determines that a critical problem or matter of public health, public safety, or common defense and security is not being properly addressed.

(b) Executive Director for Operations.—

(1) In general.—The Executive Director for Operations shall report all matters to the Chairman.

(2) Submission of reports to executive director for operations.—The Directors of Nuclear Reactor Regulations, Nuclear Material Safety and Safeguards, and Nuclear Regulatory Research
shall report to the Executive Director for Operations.

(c) Direct Reporting.—

(1) Submission of reports.—The heads of the Commission-level offices or successor offices of the following offices shall report directly to the Commission:

(A) The General Counsel.

(B) The Secretary of the Commission.

(C) The Office of Commission Appellate Adjudication.

(D) The Office of Congressional Affairs.

(E) The Office of Public Affairs.

(F) The Office of International Programs.

(G) The Atomic Safety and Licensing Board Panel.

(H) The Advisory Committee on Reactor Safeguards.

(2) Receipt of reports.—The Commission shall receive the reports submitted under paragraph (1).

SEC. 105. RECISSION OF REORGANIZATION PLAN APPROVAL.

The approval of Reorganization Plan No. 1 of 1980 (45 Fed. Reg. 40561) (adopted pursuant to the Reorga-
TITLE II—MISCELLANEOUS

SEC. 201. CERTIFICATION OF DOCUMENTS TRANSMITTED TO CONGRESS.

A letter or other document transmitted by the Commission, on behalf of the full Commission, to a member of Congress in the capacity of the member as Chairman or Ranking Minority Member of a Committee of Congress, shall include a certification that the letter or document is being sent to the Chairman and Ranking Minority Member of that Committee, in accordance with established Commission procedures.

SEC. 202. TIME LIMITS FOR COMMISSION REVIEW OF ATOMIC SAFETY AND LICENSING BOARD DECISIONS.

(a) IN GENERAL.—In reviewing the decisions and actions of the Atomic Safety and Licensing Board, not later than 90 days after the date on which the Commission receives final briefs relating to the decision or action, each member of the Commission shall vote on the matter under review.

(b) NOTIFICATION OF NONVOTERS.—Once a majority position of the members of the Commission has been established by members voting under subsection (a), the
Secretary shall notify in writing any member of the Commission that has not voted in accordance with that subsection that a majority position has been established with respect to the matter under review.

(c) DEADLINE FOR VOTING.—A member of the Commission that receives notice under subsection (b)—

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

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

(d) PUBLICATION.—The Commission shall publish any resulting decision of the Commission under this section, including adjudicatory orders and direction to agency staff—

(1) if a majority position is established with respect to the matter under review under this section, not later than 30 days after the date on which the majority position is established; or

(2) if a majority position is not established because of a tie vote of the participating members of the Commission, not later than 30 days after the date on which the voting is completed in accordance with this section.
SEC. 203. ALLEGATIONS OF WRONGDOING.

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

(b) Supervision of Inspector General.—During any period in which an investigation by the Inspector General of the Chairman is pending 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 (5 U.S.C. App.).

SEC. 204. APPROVAL OF TRAVEL.

(a) Authorization by Chairman.—The Chairman 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 by that is 5 days after the date on which the request is submitted to the Chairman.

(b) Request Considered To Be Approved.—If the Chairman fails to submit to the Commission the notice
of disapproval by the deadline described in subsection (a),
the travel shall be considered to be approved.

SEC. 205. IMPLEMENTATION.

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