

112TH CONGRESS
1ST SESSION

H. R. 3657

To clarify the authority of the Chairman of the Nuclear Regulatory Commission to act on behalf of the Commission during emergencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2011

Mr. TERRY (for himself, Mr. BARTON of Texas, and Mr. BURGESS) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To clarify the authority of the Chairman of the Nuclear Regulatory Commission to act on behalf of the Commission during emergencies, and for other purposes.

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 Emergency
5 Re-establishment of Obligations (NERO) Act”.

6 **SEC. 2. EMERGENCY AUTHORITY OF CHAIRMAN.**

7 (a) IN GENERAL.—The Chairman of the Nuclear
8 Regulatory Commission may not exercise emergency au-
9 thority to make decisions or take actions otherwise re-

1 served for the full Commission unless the Chairman has
2 declared an emergency based on—

3 (1) an imminent safety threat to a facility or
4 materials licensed or regulated by the Commission;
5 or

6 (2) a determination by the Secretary of Home-
7 land Security, the Secretary of Energy, the Sec-
8 retary of Transportation, the Director of the Federal
9 Bureau of Investigation, the Director of the Central
10 Intelligence Agency, or the Director of National In-
11 telligence that a security incident exists that poses
12 an imminent threat to a facility or materials licensed
13 or regulated by the Commission.

14 (b) ADDITIONAL REQUIREMENTS.—If the Chairman
15 declares an emergency under subsection (a)—

16 (1) the Chairman shall within 1 hour notify
17 each member of the Commission and appropriate
18 Commission staff offices, and within 4 days shall no-
19 tify the Congress, of—

20 (A) the declaration, including specific ref-
21 erence to the emergency on which the declara-
22 tion is based; and

23 (B) all actions and recommendations made
24 under the emergency authority;

1 (2) the Chairman shall ensure that all members
2 of the Commission are provided timely and current
3 access to all records and information, and all Com-
4 mission staff involved, relating to actions taken dur-
5 ing the emergency;

6 (3) to the extent practicable, the Chairman
7 shall consult with the full Commission on any ac-
8 tions to be taken under the emergency;

9 (4) the Chairman shall terminate the emer-
10 gency period not later than the termination of the
11 threat or determination on which the emergency dec-
12 laration is based under subsection (a);

13 (5) not later than 1 day after the termination
14 of the emergency, the Chairman shall notify each
15 member of the Commission, and notify the Congress,
16 of such termination; and

17 (6) not later than 10 days after the termination
18 of the emergency, the Chairman shall submit a com-
19 plete report to the Commission on the actions taken
20 during the emergency.

21 (c) COMMISSION PROCEDURES.—Not later than 90
22 days after the date of enactment of this Act, the Nuclear
23 Regulatory Commission shall revise its procedures to com-
24 ply with the requirements of this section. Such revision

1 shall define the roles of the Commissioners during an
2 emergency, specifying complete—

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

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

7 (3) access to the location or locations where de-
8 cisions are made during the emergency; and

9 (4) participation in decisions that affect Com-
10 mission actions and policies beyond the response to
11 a particular emergency.

12 **SEC. 3. CERTIFICATION OF DOCUMENTS TRANSMITTED TO**
13 **CONGRESS.**

14 A letter or other document transmitted by the Nu-
15 clear Regulatory Commission, on behalf of the full Com-
16 mission, to a member of Congress in his or her capacity
17 as chairman or ranking minority member of a Committee
18 of Congress, shall include a certification that the letter
19 or document is being sent to both the Chairman and rank-
20 ing minority member of that Committee in accordance
21 with published procedures of the Commission.

22 **SEC. 4. APPOINTMENT OF COMMISSION OFFICERS.**

23 All appointments by the Chairman of the Nuclear
24 Regulatory Commission of the officers of the Commission
25 shall be subject to approval by the full Commission, and

1 service as such an officer shall be dependent on a vote
2 of affirmation by the full Commission at least once every
3 2 years.

4 **SEC. 5. TIME LIMITS FOR COMMISSION REVIEW OF BRIEFS**
5 **REQUESTED.**

6 (a) IN GENERAL.—Except as provided in subsection
7 (b), if the Nuclear Regulatory Commission issues an order
8 requesting parties to file briefs relating to whether the
9 Commission should review, uphold, or overturn a decision
10 by the Licensing Board—

11 (1) the Commission shall vote on the matter not
12 later than 40 days after receipt of such briefs; and

13 (2) not later than 10 days after such vote, the
14 Commission shall publish its decision, including, ex-
15 cept in the case of adjudicatory matters, the votes
16 of each of the members of the Commission.

17 (b) EXCEPTION.—Subsection (a) shall not apply to
18 orders requesting parties to file briefs relating to revoca-
19 tion of a previously issued license.

20 **SEC. 6. ALLEGATIONS OF WRONGDOING.**

21 (a) REFERRAL TO INSPECTOR GENERAL.—Not later
22 than 90 days after the date of enactment of this Act, the
23 Nuclear Regulatory Commission shall revise its procedures
24 to ensure that any allegation of wrongdoing on the part

1 of the Chairman of the Commission is referred to the In-
2 spector General of the Commission.

3 (b) SUPERVISION OF INSPECTOR GENERAL.—During
4 the pendency of any investigation by the Inspector General
5 of the Nuclear Regulatory Commission with respect to an
6 allegation described in subsection (a), the responsibility
7 for supervising the Inspector General shall be delegated
8 to a member of the Commission other than the Chairman.

9 **SEC. 7. APPROVAL OF COMMISSIONER TRAVEL.**

10 The Chairman of the Nuclear Regulatory Commis-
11 sion shall authorize all domestic and international travel
12 requested by other members of the Commission for official
13 business unless the Chairman submits a notice of dis-
14 approval to the full Commission specifying the basis for
15 the disapproval. The notice of disapproval shall be sub-
16 mitted within 5 days after the travel is requested or the
17 travel shall be deemed approved.

18 **SEC. 8. BUDGET REVIEW AND DEVELOPMENT.**

19 No budget or budget revision shall be adopted for the
20 Nuclear Regulatory Commission unless each member of
21 the Commission has been given an opportunity to—

22 (1) participate in the development of such
23 budget or revision after being provided access to all
24 relevant information used in such development; and

- 1 (2) vote on the approval of such budget or revi-
- 2 sion.

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