

107TH CONGRESS
2D SESSION

H. R. 4687

AN ACT

To provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

107TH CONGRESS
2^D SESSION

H. R. 4687

AN ACT

To provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

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 “National Construction
5 Safety Team Act”.

6 **SEC. 2. NATIONAL CONSTRUCTION SAFETY TEAMS.**

7 (a) ESTABLISHMENT.—The Director of the National
8 Institute of Standards and Technology (in this Act re-
9 ferred to as the “Director”) is authorized to establish Na-
10 tional Construction Safety Teams for deployment after
11 events causing the failure of a building or buildings that
12 has resulted in substantial loss of life or that posed signifi-
13 cant potential for substantial loss of life. To the maximum
14 extent practicable, the Director shall establish and deploy
15 a Team within 48 hours after such an event. The Director
16 shall promptly publish in the Federal Register notice of
17 the establishment of each National Construction Safety
18 Team.

19 (b) PROCEDURES.—

20 (1) DEVELOPMENT.—Not later than 3 months
21 after the date of the enactment of this Act, the Di-
22 rector, in consultation with the United States Fire
23 Administration and other appropriate Federal agen-
24 cies, shall develop procedures for the establishment
25 and deployment of National Construction Safety

1 Teams. The Director shall update such procedures
2 as appropriate. Such procedures shall include
3 provisions—

4 (A) regarding conflicts of interest related
5 to service on the Team;

6 (B) defining the circumstances under
7 which the Director will establish and deploy a
8 National Construction Safety Team;

9 (C) prescribing the appropriate size of Na-
10 tional Construction Safety Teams;

11 (D) guiding the disclosure of information
12 under section 8;

13 (E) guiding the conduct of investigations
14 under this Act;

15 (F) identifying and prescribing appropriate
16 conditions for the provision by the Director of
17 additional resources and services National Con-
18 struction Safety Teams may need;

19 (G) to ensure that investigations under
20 this Act do not impede and are coordinated
21 with any search and rescue efforts being under-
22 taken at the site of the building failure;

23 (H) for regular briefings of the public on
24 the status of the investigative proceedings and
25 findings;

1 (I) guiding the National Construction
2 Safety Teams in moving and preserving evi-
3 dence as described in section 5(a)(4), (b)(2),
4 and (d)(4);

5 (J) providing for coordination with Fed-
6 eral, State, and local entities that may sponsor
7 research or investigations of building failures,
8 including research conducted under the Earth-
9 quake Hazards Reduction Act of 1977; and

10 (K) regarding such other issues as the Di-
11 rector considers appropriate.

12 (2) PUBLICATION.—The Director shall publish
13 promptly in the Federal Register final procedures,
14 and subsequent updates thereof, developed under
15 paragraph (1).

16 **SEC. 3. COMPOSITION OF TEAMS.**

17 National Construction Safety Teams shall be led by
18 an individual named by the Director. National Construc-
19 tion Safety Team members shall include at least 1 em-
20 ployee of the National Institute of Standards and Tech-
21 nology and shall include other experts who are not employ-
22 ees of the National Institute of Standards and Technology,
23 who may include private sector experts, university experts,
24 representatives of professional organizations with appro-
25 priate expertise, and appropriate Federal, State, or local

1 officials. Team members who are not Federal employees
2 shall be considered Federal Government contractors.

3 **SEC. 4. FUNCTIONS OF TEAMS.**

4 National Construction Safety Teams shall—

5 (1) conduct investigations to establish the likely
6 technical cause or causes of the building failure;

7 (2) evaluate the technical aspects of evacuation
8 and emergency response procedures;

9 (3) recommend, as necessary, specific improve-
10 ments to building standards, codes, and practices
11 based on the findings made pursuant to paragraphs
12 (1) and (2); and

13 (4) recommend any research and other appro-
14 priate actions needed to improve the structural safe-
15 ty of buildings, and improve evacuation and emer-
16 gency response procedures, based on the findings of
17 the investigation.

18 **SEC. 5. AUTHORITIES.**

19 (a) ENTRY AND INSPECTION.—In investigating a
20 building failure under this Act, members of a National
21 Construction Safety Team, and any other person author-
22 ized by the Director to support a National Construction
23 Safety Team, on display of appropriate credentials pro-
24 vided by the Director, may—

1 (1) enter property where a building failure
2 being investigated has occurred, or where building
3 components, materials, and artifacts with respect to
4 the building failure are located, and do anything
5 necessary to conduct the investigation;

6 (2) inspect any record (including any design,
7 construction, or maintenance record), process, or fa-
8 cility related to the investigation;

9 (3) inspect and test any building components,
10 materials, and artifacts related to the building fail-
11 ure; and

12 (4) move such records, components, materials,
13 and artifacts as provided by the procedures devel-
14 oped under section 2(b)(1).

15 (b) AVOIDING UNNECESSARY INTERFERENCE AND
16 PRESERVING EVIDENCE.—An inspection, test, or other
17 action taken by a National Construction Safety Team
18 under this section shall be conducted in a way that—

19 (1) does not interfere unnecessarily with serv-
20 ices provided by the owner or operator of the build-
21 ing components, materials, or artifacts, property,
22 records, process, or facility; and

23 (2) to the maximum extent feasible, preserves
24 evidence related to the building failure, consistent
25 with the ongoing needs of the investigation.

1 (c) COORDINATION.—

2 (1) WITH SEARCH AND RESCUE EFFORTS.—A
3 National Construction Safety Team shall not im-
4 pede, and shall coordinate its investigation with, any
5 search and rescue efforts being undertaken at the
6 site of the building failure.

7 (2) WITH OTHER RESEARCH.—A National Con-
8 struction Safety Team shall coordinate its investiga-
9 tion, to the extent practicable, with qualified re-
10 searchers who are conducting engineering or sci-
11 entific (including social science) research relating to
12 the building failure.

13 (3) MEMORANDA OF UNDERSTANDING.—The
14 National Institute of Standards and Technology
15 shall enter into a memorandum of understanding
16 with each Federal agency that may conduct or spon-
17 sor a related investigation, providing for coordina-
18 tion of investigations.

19 (d) INTERAGENCY PRIORITIES.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2) or (3), a National Construction Safety
22 Team investigation shall have priority over any other
23 investigation of any other Federal agency.

24 (2) NATIONAL TRANSPORTATION SAFETY
25 BOARD.—If the National Transportation Safety

1 Board is conducting an investigation related to an
2 investigation of a National Construction Safety
3 Team, the National Transportation Safety Board in-
4 vestigation shall have priority over the National Con-
5 struction Safety Team investigation. Such priority
6 shall not otherwise affect the authority of the Team
7 to continue its investigation under this Act.

8 (3) CRIMINAL ACTS.—If the Attorney General,
9 in consultation with the Director, determines, and
10 notifies the Director, that circumstances reasonably
11 indicate that the building failure being investigated
12 by a National Construction Safety Team may have
13 been caused by a criminal act, the National Con-
14 struction Safety Team shall relinquish investigative
15 priority to the appropriate Federal law enforcement
16 agency. The relinquishment of investigative priority
17 by the National Construction Safety Team shall not
18 otherwise affect the authority of the Team to con-
19 tinue its investigation under this Act.

20 (4) PRESERVATION OF EVIDENCE.—If a Fed-
21 eral law enforcement agency suspects and notifies
22 the Director that a building failure being inves-
23 tigated by a National Construction Safety Team
24 under this Act may have been caused by a criminal
25 act, the National Construction Safety Team, in con-

1 sultation with the Federal law enforcement agency,
2 shall take necessary actions to ensure that evidence
3 of the criminal act is preserved.

4 **SEC. 6. BRIEFINGS, HEARINGS, WITNESSES, AND SUB-**
5 **POENAS.**

6 (a) GENERAL AUTHORITY.—The Director, on behalf
7 of a National Construction Safety Team, may conduct
8 hearings, administer oaths, and require, by subpoena and
9 otherwise, necessary witnesses and evidence as necessary
10 to carry out this Act.

11 (b) BRIEFINGS.—National Construction Safety
12 Teams shall hold regular public briefings on the status
13 of investigative proceedings and findings.

14 (c) PUBLIC HEARINGS.—During the course of an in-
15 vestigation by a National Construction Safety Team, the
16 National Institute of Standards and Technology may, if
17 the Director considers it to be in the public interest, hold
18 a public hearing for the purposes of—

19 (1) gathering testimony from witnesses; and

20 (2) informing the public on the progress of the
21 investigation.

22 (d) PRODUCTION OF WITNESSES.—A witness or evi-
23 dence in an investigation under this Act may be sum-
24 moned or required to be produced from any place in the
25 United States. A witness summoned under this subsection

1 is entitled to the same fee and mileage the witness would
2 have been paid in a court of the United States.

3 (e) ISSUANCE OF SUBPOENAS.—A subpoena shall be
4 issued under the signature of the Director but may be
5 served by any person designated by the Director.

6 (f) FAILURE TO OBEY SUBPOENA.—If a person dis-
7 obeys a subpoena issued by the Director or a National
8 Construction Safety Team under this Act, the Attorney
9 General, acting on behalf of the Director, may bring a civil
10 action in a district court of the United States to enforce
11 the subpoena. An action under this subsection may be
12 brought in the judicial district in which the person against
13 whom the action is brought resides, is found, or does busi-
14 ness. The court may punish a failure to obey an order
15 of the court to comply with the subpoena as a contempt
16 of court.

17 **SEC. 7. ADDITIONAL POWERS.**

18 In order to support National Construction Safety
19 Teams in carrying out this Act, the Director may—

20 (1) procure the temporary or intermittent serv-
21 ices of experts or consultants under section 3109 of
22 title 5, United States Code;

23 (2) request the use, when appropriate, of avail-
24 able services, equipment, personnel, and facilities of
25 a department, agency, or instrumentality of the

1 United States Government on a reimbursable or
2 other basis;

3 (3) confer with employees and request the use
4 of services, records, and facilities of State and local
5 governmental authorities;

6 (4) accept voluntary and uncompensated serv-
7 ices;

8 (5) accept and use gifts of money and other
9 property, to the extent provided in advance in appro-
10 priations Acts;

11 (6) make contracts with nonprofit entities to
12 carry out studies related to purpose, functions, and
13 authorities of the National Construction Safety
14 Teams; and

15 (7) provide nongovernmental members of the
16 National Construction Safety Team reasonable com-
17 pensation for time spent carrying out activities
18 under this Act.

19 **SEC. 8. DISCLOSURE OF INFORMATION.**

20 (a) GENERAL RULE.—Except as otherwise provided
21 in this section, a copy of a record, information, or inves-
22 tigation submitted or received by a National Construction
23 Safety Team shall be made available to the public on re-
24 quest and at reasonable cost.

1 (b) EXCEPTION.—Subsection (a) does not require the
2 release of information described by section 552(b) of title
3 5, United States Code, or protected from disclosure by any
4 other law of the United States.

5 (c) PROTECTION OF VOLUNTARY SUBMISSION OF IN-
6 FORMATION.—Notwithstanding any other provision of law,
7 a National Construction Safety Team, the National Insti-
8 tute of Standards and Technology, and any agency receiv-
9 ing information from a National Construction Safety
10 Team or the National Institute of Standards and Tech-
11 nology, shall not disclose voluntarily provided safety-re-
12 lated information if that information is not directly related
13 to the building failure being investigated and the Director
14 finds that the disclosure of the information would inhibit
15 the voluntary provision of that type of information.

16 (d) PUBLIC SAFETY INFORMATION.—A National
17 Construction Safety Team and the National Institute of
18 Standards and Technology shall not publicly release any
19 information it receives in the course of an investigation
20 under this Act if the Director finds that the disclosure
21 of that information might jeopardize public safety.

22 **SEC. 9. NATIONAL CONSTRUCTION SAFETY TEAM REPORT.**

23 Not later than 90 days after completing an investiga-
24 tion, a National Construction Safety Team shall issue a
25 public report which includes—

1 (1) an analysis of the likely technical cause or
2 causes of the building failure investigated;

3 (2) technical recommendations for changes to
4 or the establishment of evacuation and emergency
5 response procedures;

6 (3) recommended specific improvements to
7 building standards, codes, and practices; and

8 (4) recommendations for research and other ap-
9 propriate actions needed to help prevent future
10 building failures.

11 **SEC. 10. NATIONAL INSTITUTE OF STANDARDS AND TECH-**
12 **NOLOGY ACTIONS.**

13 After the issuance of a public report under section
14 9, the National Institute of Standards and Technology
15 shall comprehensively review the report and, working with
16 the United States Fire Administration and other appro-
17 priate Federal and non-Federal agencies and
18 organizations—

19 (1) conduct, or enable or encourage the con-
20 ducting of, appropriate research recommended by
21 the National Construction Safety Team; and

22 (2) promote (consistent with existing proce-
23 dures for the establishment of building standards,
24 codes, and practices) the appropriate adoption by
25 the Federal Government, and encourage the appro-

1 appropriate adoption by other agencies and organizations,
2 of the recommendations of the National Construc-
3 tion Safety Team with respect to—

4 (A) technical aspects of evacuation and
5 emergency response procedures;

6 (B) specific improvements to building
7 standards, codes, and practices; and

8 (C) other actions needed to help prevent
9 future building failures.

10 **SEC. 11. NATIONAL INSTITUTE OF STANDARDS AND TECH-**
11 **NOLOGY ANNUAL REPORT.**

12 Not later than February 15 of each year, the Director
13 shall transmit to the Committee on Science of the House
14 of Representatives and to the Committee on Commerce,
15 Science, and Transportation of the Senate a report that
16 includes—

17 (1) a summary of the investigations conducted
18 by National Construction Safety Teams during the
19 prior fiscal year;

20 (2) a summary of recommendations made by
21 the National Construction Safety Teams in reports
22 issued under section 9 during the prior fiscal year;
23 and

24 (3) a description of the actions taken by the
25 National Institute of Standards and Technology dur-

1 ing the prior fiscal year in response to reports issued
2 under section 9.

3 **SEC. 12. ADVISORY COMMITTEE.**

4 (a) ESTABLISHMENT AND FUNCTIONS.—The Direc-
5 tor, in consultation with the United States Fire Adminis-
6 tration and other appropriate Federal agencies, shall es-
7 tablish an advisory committee to advise the Director on
8 carrying out this Act and to review the procedures devel-
9 oped under section 2(b)(1) and the reports issued under
10 section 9.

11 (b) ANNUAL REPORT.—On January 1 of each year,
12 the advisory committee shall transmit to the Committee
13 on Science of the House of Representatives and to the
14 Committee on Commerce, Science, and Transportation of
15 the Senate a report that includes—

16 (1) an evaluation of National Construction
17 Safety Team activities, along with recommendations
18 to improve the operation and effectiveness of Na-
19 tional Construction Safety Teams; and

20 (2) an assessment of the implementation of the
21 recommendations of National Construction Safety
22 Teams and of the advisory committee.

23 (c) DURATION OF ADVISORY COMMITTEE.—Section
24 14 of the Federal Advisory Committee Act shall not apply
25 to the advisory committee established under this section.

1 **SEC. 13. ADDITIONAL APPLICABILITY.**

2 The authorities and restrictions applicable under this
3 Act to the Director and to National Construction Safety
4 Teams shall apply to the activities of the National Insti-
5 tute of Standards and Technology in response to the at-
6 tacks of September 11, 2001.

7 **SEC. 14. AMENDMENT.**

8 Section 7 of the National Bureau of Standards Au-
9 thorization Act for Fiscal Year 1986 (15 U.S.C. 281a)
10 is amended by inserting “, or from an investigation under
11 the National Construction Safety Team Act,” after “from
12 such investigation”.

13 **SEC. 15. CONSTRUCTION.**

14 Nothing in this Act shall be construed to confer any
15 authority on the National Institute of Standards and
16 Technology to require the adoption of building standards,
17 codes, or practices.

18 **SEC. 16. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated to the Na-
20 tional Institute of Standards and Technology for carrying
21 out this Act such sums as may be necessary for each of

- 1 the fiscal years 2003 through 2005, to remain available
- 2 until expended.

Passed the House of Representatives July 12, 2002.

Attest:

Clerk.