

Calendar No. 510

107TH CONGRESS
2^D SESSION**H. R. 4687**

IN THE SENATE OF THE UNITED STATES

JULY 15, 2002

Received

JULY 22, 2002

Read the first time

JULY 23, 2002

Read the second time and placed on the calendar

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”.

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

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

14 (b) PROCEDURES.—

15 (1) DEVELOPMENT.—Not later than 3 months
16 after the date of the enactment of this Act, the Di-
17 rector, in consultation with the United States Fire
18 Administration and other appropriate Federal agen-
19 cies, shall develop procedures for the establishment
20 and deployment of National Construction Safety
21 Teams. The Director shall update such procedures
22 as appropriate. Such procedures shall include
23 provisions—

24 (A) regarding conflicts of interest related
25 to service on the Team;

1 (B) defining the circumstances under
2 which the Director will establish and deploy a
3 National Construction Safety Team;

4 (C) prescribing the appropriate size of Na-
5 tional Construction Safety Teams;

6 (D) guiding the disclosure of information
7 under section 8;

8 (E) guiding the conduct of investigations
9 under this Act;

10 (F) identifying and prescribing appropriate
11 conditions for the provision by the Director of
12 additional resources and services National Con-
13 struction Safety Teams may need;

14 (G) to ensure that investigations under
15 this Act do not impede and are coordinated
16 with any search and rescue efforts being under-
17 taken at the site of the building failure;

18 (H) for regular briefings of the public on
19 the status of the investigative proceedings and
20 findings;

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

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

6 (K) regarding such other issues as the Di-
7 rector considers appropriate.

8 (2) PUBLICATION.—The Director shall publish
9 promptly in the Federal Register final procedures,
10 and subsequent updates thereof, developed under
11 paragraph (1).

12 **SEC. 3. COMPOSITION OF TEAMS.**

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

24 **SEC. 4. FUNCTIONS OF TEAMS.**

25 National Construction Safety Teams shall—

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

3 (2) evaluate the technical aspects of evacuation
4 and emergency response procedures;

5 (3) recommend, as necessary, specific improve-
6 ments to building standards, codes, and practices
7 based on the findings made pursuant to paragraphs
8 (1) and (2); and

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

14 **SEC. 5. AUTHORITIES.**

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

21 (1) enter property where a building failure
22 being investigated has occurred, or where building
23 components, materials, and artifacts with respect to
24 the building failure are located, and do anything
25 necessary to conduct the investigation;

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

4 (3) inspect and test any building components,
5 materials, and artifacts related to the building fail-
6 ure; and

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

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

14 (1) does not interfere unnecessarily with serv-
15 ices provided by the owner or operator of the build-
16 ing components, materials, or artifacts, property,
17 records, process, or facility; and

18 (2) to the maximum extent feasible, preserves
19 evidence related to the building failure, consistent
20 with the ongoing needs of the investigation.

21 (c) COORDINATION.—

22 (1) WITH SEARCH AND RESCUE EFFORTS.—A
23 National Construction Safety Team shall not im-
24 pede, and shall coordinate its investigation with, any

1 search and rescue efforts being undertaken at the
2 site of the building failure.

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

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

15 (d) INTERAGENCY PRIORITIES.—

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

20 (2) NATIONAL TRANSPORTATION SAFETY
21 BOARD.—If the National Transportation Safety
22 Board is conducting an investigation related to an
23 investigation of a National Construction Safety
24 Team, the National Transportation Safety Board in-
25 vestigation shall have priority over the National Con-

1 construction Safety Team investigation. Such priority
2 shall not otherwise affect the authority of the Team
3 to continue its investigation under this Act.

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

16 (4) PRESERVATION OF EVIDENCE.—If a Fed-
17 eral law enforcement agency suspects and notifies
18 the Director that a building failure being inves-
19 tigated by a National Construction Safety Team
20 under this Act may have been caused by a criminal
21 act, the National Construction Safety Team, in con-
22 sultation with the Federal law enforcement agency,
23 shall take necessary actions to ensure that evidence
24 of the criminal act is preserved.

1 **SEC. 6. BRIEFINGS, HEARINGS, WITNESSES, AND SUB-**
2 **POENAS.**

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

8 (b) BRIEFINGS.—National Construction Safety
9 Teams shall hold regular public briefings on the status
10 of investigative proceedings and findings.

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

16 (1) gathering testimony from witnesses; and
17 (2) informing the public on the progress of the
18 investigation.

19 (d) PRODUCTION OF WITNESSES.—A witness or evi-
20 dence in an investigation under this Act may be sum-
21 moned or required to be produced from any place in the
22 United States. A witness summoned under this subsection
23 is entitled to the same fee and mileage the witness would
24 have been paid in a court of the United States.

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

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

15 **SEC. 7. ADDITIONAL POWERS.**

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

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

21 (2) request the use, when appropriate, of avail-
22 able services, equipment, personnel, and facilities of
23 a department, agency, or instrumentality of the
24 United States Government on a reimbursable or
25 other basis;

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

4 (4) accept voluntary and uncompensated serv-
5 ices;

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

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

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

17 **SEC. 8. DISCLOSURE OF INFORMATION.**

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

23 (b) EXCEPTION.—Subsection (a) does not require the
24 release of information described by section 552(b) of title

1 5, United States Code, or protected from disclosure by any
2 other law of the United States.

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

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

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

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

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

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

4 (3) recommended specific improvements to
5 building standards, codes, and practices; and

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

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

11 After the issuance of a public report under section
12 9, the National Institute of Standards and Technology
13 shall comprehensively review the report and, working with
14 the United States Fire Administration and other appro-
15 priate Federal and non-Federal agencies and
16 organizations—

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

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

1 of the recommendations of the National Construc-
2 tion Safety Team with respect to—

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

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

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

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

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

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

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

23 (3) a description of the actions taken by the
24 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
22 the fiscal years 2003 through 2005, to remain available
23 until expended.

Passed the House of Representatives July 12, 2002.

Attest:

JEFF TRANDAHL,

Clerk.

Calendar No. 510

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.

JULY 23, 2002

Read the second time and placed on the calendar