

107TH CONGRESS
2^D SESSION

S. 2496

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, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2002

Mrs. CLINTON (for herself, Mr. SCHUMER, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science and Transportation

A BILL

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, 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 “National Construction
5 Safety Team Act of 2002”.

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 within
6 48 hours after events causing the failure of a building or
7 buildings that has resulted in substantial loss of life or
8 that posed significant potential for substantial loss of life.
9 The Director shall promptly publish in the Federal Reg-
10 ister notice of the establishment of each National Con-
11 struction Safety Team.

12 (b) PROCEDURES.—

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

22 (A) regarding conflicts of interest related
23 to service on the Team;

24 (B) defining the circumstances under
25 which the Director will establish and deploy a
26 National Construction Safety Team;

1 (C) prescribing the appropriate size of Na-
2 tional Construction Safety Teams;

3 (D) guiding the disclosure of information
4 under section 8;

5 (E) guiding the conduct of investigations
6 under this Act;

7 (F) identifying, and prescribing appro-
8 priate conditions for the provision by the Direc-
9 tor of, additional resources and services that a
10 National Construction Safety Team may need;

11 (G) for ensuring that investigations under
12 this Act do not impede and are coordinated
13 with any search and rescue efforts being under-
14 taken at the site of the building failure;

15 (H) requiring regular briefings of the pub-
16 lic on the status of the investigative proceeding
17 and findings;

18 (I) guiding the National Construction
19 Safety Teams in the moving and preservation of
20 evidence as described in subsections (a)(4),
21 (b)(2), and (d)(4) of section 5;

22 (J) providing for coordination with Fed-
23 eral, State, and local entities that may sponsor
24 research or investigations of building failures,
25 including research conducted under the Earth-

1 quake Hazards Reduction Act of 1977 (42
2 U.S.C. 7701 et seq.); and

3 (K) regarding such other issues as the Di-
4 rector considers appropriate.

5 (2) PUBLICATION.—The Director shall publish
6 promptly in the Federal Register final procedures,
7 and subsequent updates of the procedures, that are
8 developed under paragraph (1).

9 **SEC. 3. COMPOSITION OF TEAMS.**

10 (a) TEAM LEADER.—Each National Construction
11 Safety Team shall be led by an individual designated by
12 the Director.

13 (b) MEMBERS.—

14 (1) IN GENERAL.—The members of a National
15 Construction Safety Team shall include—

16 (A) at least one employee of the National
17 Institute of Standards and Technology; and

18 (B) others who are experts not employed
19 by the National Institute of Standards and
20 Technology.

21 (2) SOURCE OF ADDITIONAL MEMBERS.—The
22 experts referred to in paragraph (1)(B) may include
23 private sector experts, experts from institutions of
24 higher education, representatives of professional or-

1 organizations with appropriate expertise, and appro-
2 priate Federal, State, or local government officials.

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 specific improvements to build-
10 ing standards, codes, and practices based on the
11 findings made pursuant to paragraphs (1) and (2);
12 and

13 (4) recommend research and other appropriate
14 actions needed to improve the structural safety of
15 buildings, and improve evacuation and emergency re-
16 sponse procedures, based on the findings of the in-
17 vestigation.

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, upon the display of appropriate credentials
24 provided 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 components, materials, and arti-
13 facts as provided by the procedures developed under
14 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.—To
14 provide for the coordination of investigations, the
15 Director shall enter into a memorandum of under-
16 standing with the head of each Federal agency that
17 may conduct or sponsor an investigation related to
18 an investigation by a National Construction Safety
19 Team.

20 (d) INTERAGENCY PRIORITIES.—

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

1 (2) NATIONAL TRANSPORTATION SAFETY
2 BOARD.—If the National Transportation Safety
3 Board is conducting an investigation related to a
4 matter under investigation by a National Construc-
5 tion Safety Team, the National Transportation Safe-
6 ty Board investigation shall have priority over the
7 National Construction Safety Team investigation.
8 Such priority shall not otherwise affect the authority
9 of the Team to continue its investigation under this
10 Act.

11 (3) CRIMINAL ACTS.—If the Attorney General,
12 in consultation with the Director, determines and
13 notifies the Director that circumstances reasonably
14 indicate that the building failure being investigated
15 by a National Construction Safety Team may have
16 been caused by a criminal act with intent to cause
17 the building failure, the National Construction Safe-
18 ty Team shall relinquish investigative priority to the
19 appropriate Federal law enforcement agency. The
20 relinquishment of investigative priority by the Na-
21 tional Construction Safety Team shall not otherwise
22 affect the authority of the Team to continue its in-
23 vestigation under this Act.

24 (4) PRESERVATION OF EVIDENCE.—If the head
25 of a Federal law enforcement agency suspects and

1 notifies the Director that a building failure being in-
2 vestigated by a National Construction Safety Team
3 under this Act may have been caused by a criminal
4 act with intent to cause the building failure, the Na-
5 tional Construction Safety Team, in consultation
6 with the head of that Federal law enforcement agen-
7 cy, shall take actions necessary to ensure that evi-
8 dence of the criminal act is preserved.

9 **SEC. 6. BRIEFINGS, HEARINGS, WITNESSES, AND SUB-**
10 **POENAS.**

11 (a) GENERAL AUTHORITY.—The Director, on behalf
12 of a National Construction Safety Team, may conduct
13 hearings, administer oaths, and require, by subpoena and
14 otherwise, necessary witnesses and evidence as necessary
15 to carry out this Act.

16 (b) BRIEFINGS.—A National Construction Safety
17 Team shall hold regular public briefings on the status of
18 the investigative proceeding and findings of the team.

19 (c) PUBLIC HEARINGS.—During the course of an in-
20 vestigation by a National Construction Safety Team, an
21 official or officials of the National Institute of Standards
22 and Technology shall, if the Director considers it to be
23 in the public interest, hold a public hearing for the pur-
24 poses of—

25 (1) gathering testimony from witnesses; and

1 (2) informing the public on the progress of the
2 investigation.

3 (d) PRODUCTION OF WITNESSES.—A witness in an
4 investigation under this Act may be summoned, and evi-
5 dence in such an investigation may be required to be pro-
6 duced, from any place in the United States. A witness
7 summoned under this subsection is entitled to the same
8 fee and mileage allowance that the witness would have
9 been paid in a court of the United States.

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

13 (f) FAILURE TO OBEY SUBPOENA.—If a person dis-
14 obeys a subpoena, order, or inspection notice issued by the
15 Director or a National Construction Safety Team under
16 this Act, the Director may bring a civil action in a district
17 court of the United States to enforce the subpoena, order,
18 or notice. An action under this subsection may be brought
19 in the judicial district in which the person against whom
20 the action is brought resides, is found, or does business.
21 The court may punish a failure to obey an order of the
22 court to comply with the subpoena, order, or notice as a
23 contempt of court.

1 **SEC. 7. ADDITIONAL POWERS.**

2 In order to support a National Construction Safety
3 Team in carrying out this Act, the Director may—

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

7 (2) request the use, when appropriate, of avail-
8 able services, equipment, personnel, and facilities of
9 a department, agency, or instrumentality of the
10 United States Government on a reimbursable or
11 other basis;

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

15 (4) accept voluntary and uncompensated serv-
16 ices;

17 (5) make contracts with nonprofit entities to
18 carry out studies related to purpose, functions, and
19 authorities of the National Construction Safety
20 Teams; and

21 (6) provide nongovernmental members of the
22 National Construction Safety Team reasonable com-
23 pensation for time spent carrying out activities
24 under this Act.

1 **SEC. 8. DISCLOSURE OF INFORMATION.**

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

7 (b) EXCEPTION.—Subsection (a) does not require the
8 release of information that—

9 (1) is exempt under subsection (b) of section
10 552 of title 5, United States Code, from disclosure
11 under that section; or

12 (2) is otherwise protected from disclosure by
13 any other law of the United States.

14 (c) PROTECTION OF VOLUNTARY SUBMISSION OF IN-
15 FORMATION.—Notwithstanding any other provision of law,
16 a National Construction Safety Team, the National Insti-
17 tute of Standards and Technology, and any agency receiv-
18 ing information from a National Construction Safety
19 Team or the National Institute of Standards and Tech-
20 nology, shall not disclose voluntarily provided safety-re-
21 lated information if that information is not directly related
22 to the building failure being investigated and the Director
23 finds that the disclosure of the information would inhibit
24 the voluntary provision of that type of information.

25 (d) PUBLIC SAFETY INFORMATION.—A National
26 Construction Safety Team and the National Institute of

1 Standards and Technology shall not publicly release any
2 information it receives in the course of an investigation
3 under this Act if the Director finds that the disclosure
4 of that information might jeopardize public safety.

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

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

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

11 (2) technical recommendations for changes to
12 or the establishment of evacuation and emergency
13 response procedures;

14 (3) recommended specific improvements to
15 building standards, codes, and practices; and

16 (4) recommendations for research and other ap-
17 propriate actions needed to help prevent future
18 building failures.

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

21 After the issuance of a public report under section
22 9, the Director shall comprehensively review the report
23 and, working with the Administrator of the United States
24 Fire Administration and the heads of other appropriate
25 Federal and non-Federal agencies and organizations—

1 (1) conduct, or enable or encourage the conduct
2 of, appropriate research recommended by the Na-
3 tional Construction Safety Team; and

4 (2) promote the appropriate adoption by the
5 Federal Government, and encourage the appropriate
6 adoption by the heads of other agencies and organi-
7 zations, of the recommendations of the National
8 Construction Safety Team with respect to—

9 (A) technical aspects of evacuation and
10 emergency response procedures;

11 (B) specific improvements to building
12 standards, codes, and practices; and

13 (C) other actions needed to help prevent
14 future building failures.

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

17 Not later than February 15 of each year, the Director
18 shall transmit to the Committee on Science of the House
19 of Representatives and to the Committee on Commerce,
20 Science, and Transportation of the Senate a report that
21 includes—

22 (1) a summary of the investigations conducted
23 by National Construction Safety Teams during the
24 fiscal year ending in the preceding year;

1 (2) a summary of recommendations made by
2 the National Construction Safety Teams in reports
3 issued under section 9 during such fiscal year; and

4 (3) a description of the actions taken by the
5 National Institute of Standards and Technology dur-
6 ing such fiscal year in response to reports issued
7 under section 9.

8 **SEC. 12. ADVISORY COMMITTEE.**

9 (a) ESTABLISHMENT AND FUNCTIONS.—The Direc-
10 tor, in consultation with the Administrator of the United
11 States Fire Administration and the heads of other appro-
12 priate Federal agencies, shall establish an advisory com-
13 mittee to advise the Director on carrying out this Act and
14 to review the procedures developed under section 2(b)(1)
15 and the reports issued under section 9.

16 (b) ANNUAL REPORT.—On January 1 of each year,
17 the advisory committee shall transmit to the Committee
18 on Science of the House of Representatives and to the
19 Committee on Commerce, Science, and Transportation of
20 the Senate a report that includes—

21 (1) an evaluation of the activities of the Na-
22 tional Construction Safety Teams, together with rec-
23 ommendations to improve the operation and effec-
24 tiveness of National Construction Safety Teams; and

1 (2) an assessment of the implementation of the
2 recommendations of National Construction Safety
3 Teams and of the advisory committee.

4 (c) DURATION OF ADVISORY COMMITTEE.—Section
5 14 of the Federal Advisory Committee Act shall not apply
6 to the advisory committee established under this section.

7 **SEC. 13. ADDITIONAL APPLICABILITY.**

8 The authorities and restrictions applicable under this
9 Act to the Director and to National Construction Safety
10 Teams shall apply to the activities of the National Insti-
11 tute of Standards and Technology in response to the at-
12 tacks of September 11, 2001.

13 **SEC. 14. AMENDMENT.**

14 Section 7 of the National Bureau of Standards Au-
15 thorization Act for Fiscal Year 1986 (15 U.S.C. 281a)
16 is amended by inserting “, or from an investigation under
17 the National Construction Safety Team Act of 2002,”
18 after “from such investigation” in the second sentence.

19 **SEC. 15. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated to the Na-
21 tional Institute of Standards and Technology for carrying
22 out this Act \$25,000,000 for each of the fiscal years 2003
23 through 2005, to remain available until expended.

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