

114TH CONGRESS  
1ST SESSION

# S. 546

To establish the Railroad Emergency Services Preparedness, Operational Needs, and Safety Evaluation (RESPONSE) Subcommittee under the Federal Emergency Management Agency's National Advisory Council to provide recommendations on emergency responder training and resources relating to hazardous materials incidents involving railroads, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2015

Ms. HEITKAMP (for herself, Mr. KING, Ms. BALDWIN, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To establish the Railroad Emergency Services Preparedness, Operational Needs, and Safety Evaluation (RESPONSE) Subcommittee under the Federal Emergency Management Agency's National Advisory Council to provide recommendations on emergency responder training and resources relating to hazardous materials incidents involving railroads, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “RESPONSE Act of  
3 2015”.

4 **SEC. 2. RAILROAD EMERGENCY SERVICES PREPAREDNESS,  
5 OPERATIONAL NEEDS, AND SAFETY EVALUA-  
6 TION SUBCOMMITTEE.**

7 Section 508 of the Homeland Security Act of 2002  
8 (6 U.S.C. 318) is amended—

9 (1) by redesignating subsection (d) as sub-  
10 section (e); and

11 (2) by inserting after subsection (c) the fol-  
12 lowing:

13 “(d) RESPONSE SUBCOMMITTEE.—

14 “(1) ESTABLISHMENT.—Not later than 30 days  
15 after the date of the enactment of the RESPONSE  
16 Act of 2015, the Administrator shall establish, as a  
17 subcommittee of the National Advisory Council, the  
18 Railroad Emergency Services Preparedness, Oper-  
19 ational Needs, and Safety Evaluation Subcommittee  
20 (referred to in this subsection as the ‘RESPONSE  
21 Subcommittee’).

22 “(2) MEMBERSHIP.—Notwithstanding sub-  
23 section (c), the RESPONSE Subcommittee shall be  
24 composed of the following:

25 “(A) The Deputy Administrator for Pro-  
26 tection and National Preparedness of the Fed-

1           eral Emergency Management Agency, or des-  
2           ignee.

3           “(B) The Director of the Office of Emer-  
4           gency Communications of the Department of  
5           Homeland Security, or designee.

6           “(C) The Director for the Office of Rail-  
7           road, Pipeline and Hazardous Materials Inves-  
8           tigations of the National Transportation Safety  
9           Board, or designee, only in an advisory capac-  
10          ity.

11          “(D) The Associate Administrator for  
12          Railroad Safety of the Federal Railroad Admin-  
13          istration, or designee.

14          “(E) The Assistant Administrator for Se-  
15          curity Policy and Industry Engagement of the  
16          Transportation Security Administration, or des-  
17          ignee.

18          “(F) The Assistant Commandant for Re-  
19          sponse Policy of the Coast Guard, or designee.

20          “(G) The Assistant Administrator for the  
21          Office of Solid Waste and Emergency Response  
22          of the Environmental Protection Agency, or  
23          designee.

24          “(H) The Associate Administrator for  
25          Hazardous Materials Safety of the Pipeline and

1 Hazardous Materials Safety Administration, or  
2 designee.

3 “(I) The Chief Safety Officer and Assist-  
4 ant Administrator of the Federal Motor Carrier  
5 Safety Administration, or designee.

6 “(J) Such other qualified individuals as  
7 the Administrator shall appoint as soon as  
8 practicable after the date of the enactment of  
9 the RESPONSE Act of 2015 from among the  
10 following:

11 “(i) Members of the National Advi-  
12 sory Council that have the requisite tech-  
13 nical knowledge and expertise to address  
14 rail emergency response issues, including  
15 members from the following disciplines:

16 “(I) Emergency management and  
17 emergency response providers, includ-  
18 ing fire service, law enforcement, haz-  
19 ardous materials response, and emer-  
20 gency medical services.

21 “(II) State, local, and tribal gov-  
22 ernment officials with expertise in  
23 preparedness, protection, response, re-  
24 covery, and mitigation, including Ad-  
25 jutants General.

1                   “(III) Elected State, local, and  
2                   tribal government executives.

3                   “(IV) Such other individuals as  
4                   the Administrator determines to be  
5                   appropriate.

6                   “(ii) Individuals who have the req-  
7                   uisite technical knowledge and expertise to  
8                   serve on the RESPONSE Subcommittee,  
9                   including representatives of—

10                   “(I) the rail industry;

11                   “(II) the oil industry;

12                   “(III) the communications indus-  
13                   try;

14                   “(IV) emergency response pro-  
15                   viders, including individuals nomi-  
16                   nated by national organizations rep-  
17                   resenting local governments and per-  
18                   sonnel;

19                   “(V) representatives from na-  
20                   tional Indian organizations;

21                   “(VI) technical experts; and

22                   “(VII) vendors, developers, and  
23                   manufacturers of systems, facilities,  
24                   equipment, and capabilities for emer-  
25                   gency responder services.

1                   “(iii) Representatives of such other  
2                   stakeholders and interested and affected  
3                   parties as the Administrator considers ap-  
4                   propriate.

5                   “(3) CHAIRPERSON.—The Deputy Adminis-  
6                   trator for Protection and National Preparedness  
7                   shall serve as the Chairperson of the RESPONSE  
8                   Subcommittee, or designee.

9                   “(4) MEETINGS.—

10                   “(A) INITIAL MEETING.—The initial meet-  
11                   ing of the RESPONSE Subcommittee shall  
12                   take place not later than 90 days after the date  
13                   of the enactment of the RESPONSE Act of  
14                   2015.

15                   “(B) OTHER MEETINGS.—After the initial  
16                   meeting, the RESPONSE Subcommittee shall  
17                   meet at least twice annually, with at least 1  
18                   meeting conducted in person during the first  
19                   year, at the call of the Chairperson.

20                   “(5) CONSULTATION WITH NONMEMBERS.—The  
21                   RESPONSE Subcommittee and the program offices  
22                   for emergency responder training and resources shall  
23                   consult with other relevant agencies and groups, in-  
24                   cluding entities engaged in federally funded research  
25                   and academic institutions engaged in relevant work

1 and research, which are not represented on the RE-  
2 SPONSE Subcommittee to consider new and devel-  
3 oping technologies and methods that may be bene-  
4 ficial to preparedness and response to rail incidents.

5 “(6) RECOMMENDATIONS.—The RESPONSE  
6 Subcommittee shall evaluate the following topics and  
7 develop recommendations, as appropriate, for im-  
8 proving emergency responder training and resource  
9 allocation for hazardous materials incidents involving  
10 railroads:

11 “(A) Quality and application of training  
12 for local emergency first responders related to  
13 rail hazardous materials incidents, with a par-  
14 ticular focus on local emergency responders and  
15 small communities near railroads, including the  
16 following:

17 “(i) Ease of access to relevant train-  
18 ing for local emergency first responders,  
19 including an analysis of—

20 “(I) the number of individuals  
21 being trained;

22 “(II) the number of individuals  
23 who are applying;

24 “(III) whether current demand is  
25 being met;

1 “(IV) current challenges; and

2 “(V) projected needs.

3 “(ii) Modernization of course content  
4 related to rail hazardous materials inci-  
5 dents, with a particular focus on response  
6 to the exponential rise in oil shipments by  
7 rail.

8 “(iii) Training content across agencies  
9 and the private sector to provide com-  
10plementary opportunities for rail haz-  
11ardous materials incidents courses and ma-  
12terials to avoid overlap, including the fol-  
13lowing:

14 “(I) Overlap of course content  
15 among agencies.

16 “(II) Integrated course content  
17 through public-private partnerships.

18 “(III) Regular and ongoing eval-  
19uation of course opportunities, adap-  
20tation to emerging trends, agency and  
21private sector outreach, effectiveness  
22and ease of access for local emergency  
23responders.

24 “(iv) Online training platforms, train-  
25the-trainer and mobile training options.



1           “(B) Effectiveness of funding levels related  
2 to training local emergency responders for rail  
3 hazardous materials incidents, with a particular  
4 focus on local emergency responders and small  
5 communities, including the following:

6                   “(i) Minimizing overlap in resource al-  
7 location among agencies.

8                   “(ii) Minimizing overlap in resource  
9 allocation among agencies and private sec-  
10 tor.

11                   “(iii) Maximizing public-private part-  
12 nerships where funding gaps exists for spe-  
13 cific training or cost-saving measures can  
14 be implemented to increase training oppor-  
15 tunities.

16                   “(iv) Adaptation of priority settings  
17 for agency funding allocations in response  
18 to emerging trends.

19                   “(v) Historic levels of funding across  
20 agencies and private sector for rail haz-  
21 ardous materials incidents.

22                   “(vi) Current funding resources across  
23 agencies.

24           “(C) Strategy for integration of commodity  
25 flow studies, mapping, and access platforms for

1 local emergency responders and how to increase  
2 the rate of access to the individual responder in  
3 existing or emerging communications tech-  
4 nology.

5 “(D) The need for emergency response  
6 plans for rail, similar to existing law related to  
7 maritime and stationary facility emergency re-  
8 sponse plans for hazardous materials, including  
9 the following:

10 “(i) The requirements of such emer-  
11 gency plans on each train and the format  
12 and availability of such emergency plans to  
13 emergency responders in communities  
14 through which the materials travel.

15 “(ii) How the industry would imple-  
16 ment such plans.

17 “(iii) The thresholds that require  
18 emergency plans for each train related to  
19 hazardous materials in its cargo.

20 “(iv) Gaps in existing regulations  
21 across agencies.

22 “(E) The need for a rail hazardous mate-  
23 rials incident database, including the following:

24 “(i) An assessment of the appropriate  
25 entity to host the database.

1           “(ii) A definition of ‘rail hazardous  
2 materials incident’ that would constitute  
3 the level of reporting from the industry.

4           “(iii) The projected cost of such a  
5 database and how that database would be  
6 maintained and enforced.

7           “(F) Increasing access to relevant, useful,  
8 and timely information for the local emergency  
9 responder for training purposes and in the  
10 event of a rail hazardous materials incident, in-  
11 cluding the following:

12           “(i) Existing information that the  
13 emergency responder can access, what the  
14 current rate of access and usefulness is for  
15 the emergency responder, and what cur-  
16 rent information should remain and what  
17 should be reassessed.

18           “(ii) Utilization of existing technology  
19 in the hands of the first responder to  
20 maximize delivery of useful and timely in-  
21 formation for training purposes or in the  
22 event of an incident.

23           “(iii) Assessment of emerging commu-  
24 nications technology that could assist the

1 emergency responder in the event of an in-  
2 cident.

3 “(G) Determination of the most appro-  
4 priate agencies and offices for the implementa-  
5 tion of the recommendations, including—

6 “(i) recommendations that can be im-  
7 plemented without congressional action  
8 and appropriate timeframes for such ac-  
9 tions; and

10 “(ii) recommendations that would re-  
11 quire congressional action.

12 “(7) REPORT.—

13 “(A) IN GENERAL.—Not later than 1 year  
14 after the date of the enactment of the RE-  
15 SPONSE Act of 2015, the RESPONSE Sub-  
16 committee shall submit a report containing the  
17 recommendations developed under paragraph  
18 (6) to the National Advisory Council.

19 “(B) REVIEW.—The National Advisory  
20 Council shall take up the RESPONSE Sub-  
21 committee’s report within 30 days for review  
22 and deliberation. The National Advisory Coun-  
23 cil may ask for additional clarification, changes,  
24 or other information from the RESPONSE

1 Subcommittee to assist in the approval of the  
2 recommendations.

3 “(C) RECOMMENDATION.—Once the Na-  
4 tional Advisory Council approves the rec-  
5 ommendations from the RESPONSE Sub-  
6 committee, the National Advisory Council shall  
7 submit the report to—

8 “(i) the Administrator;

9 “(ii) the head of each agency rep-  
10 resented on the RESPONSE Sub-  
11 committee;

12 “(iii) the Committee on Homeland Se-  
13 curity and Governmental Affairs of the  
14 Senate;

15 “(iv) the Committee on Homeland Se-  
16 curity of the House of Representatives;  
17 and

18 “(v) the Committee on Transportation  
19 and Infrastructure of the House of Rep-  
20 resentatives.

21 “(8) INTERIM ACTIVITY.—

22 “(A) UPDATES AND OVERSIGHT.—After  
23 the submission of the report by the National  
24 Advisory Council under paragraph (7), the Ad-  
25 ministrator shall—

1           “(i) provide quarterly updates to the  
2           congressional committees referred to in  
3           paragraph (7) regarding the status of the  
4           implementation of the recommendations  
5           developed under paragraph (6); and

6           “(ii) coordinate the implementation of  
7           the recommendations described in para-  
8           graph (6)(G)(i).

9           “(B) ADDITIONAL REPORTS.—After sub-  
10          mitting the report required under paragraph  
11          (7), the RESPONSE Subcommittee shall sub-  
12          mit additional reports and recommendations in  
13          the same manner and to the same entities iden-  
14          tified in paragraph (7) if needed or requested  
15          from Congress or from the Administrator.

16          “(9) TERMINATION.—

17                 “(A) IN GENERAL.—Except as provided in  
18                 subparagraph (B), the RESPONSE Sub-  
19                 committee shall terminate not later than 4  
20                 years after the date of the enactment of the  
21                 RESPONSE Act of 2015.

22                 “(B) EXTENSION.—The Administrator  
23                 may extend the duration of the RESPONSE  
24                 Subcommittee, in 1-year increments, if the Ad-  
25                 ministrator determines that additional reports

1           and recommendations are needed from the RE-  
2           SPONSE Subcommittee after the termination  
3           date set forth in subparagraph (A).”.

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