

FEMA National Advisory Council Meeting

**Railroad Emergency Services Preparedness, Operational
Needs, and Safety Evaluation (RESPONSE)
Subcommittee Report and Voting**

November 29, 2017

Co-Chairs:

Kathleen Fox, FEMA Howard McMillan, PHMSA Chris Howell, NAC



FEMA

Requirement

The RESPONSE Act of 2016 (P.L. 114-321) directs FEMA to establish the Railroad Emergency Services Preparedness, Operational Needs, and Safety Evaluation (RESPONSE) Subcommittee under its National Advisory Council (NAC) to develop recommendations, as appropriate, for **improving emergency responder training and resource allocation for hazardous materials (HAZMAT) incidents involving railroads.**



FEMA

Subcommittee Members - 1

Subcommittee Leadership



Mrs. Kathleen Fox, Co-Chair
Washington, DC
Title: Acting Deputy Administrator, Protection and National Preparedness, Federal Emergency Management Agency, U.S. Department of Homeland Security (DHS)
Category: Named Federal Official



Dr. David Bierling
College Station, TX
Title: Research Scientist, Texas A&M Transportation Institute
Category: Technical Expert



Mr. Howard McMillan, Co-Chair
Washington, DC
Title: Executive Director, Pipeline Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT)
Category: Named Federal Official



Mr. Patrick Brady
Fort Worth, TX
Title: General Director, HAZMAT Safety, BNSF Railway
Category: Rail Industry



Mr. Chris Howell, Co-Chair
Fort Worth, TX, and Kansas City, KS
Title: Director of Tribal Relations, BNSF Railway Company
Category: NAC (NAC Response & Recovery Committee Vice Chair)



Mr. Robert Wayne "Bobby" Breed
Fort Worth, TX
Title: Vice President and General Manager, Specialized Response Solutions, National Response Corporation
Category: Vendors, Developers, and Manufacturers for Emergency Responder Services and Training Provider

Subcommittee Membership



Mr. Karl Alexy
Washington, DC
Title: Director, Office of Safety Analysis, Federal Railroad Administration, DOT
Category: Named Federal Official (designee)



CAPT William Carter
Washington, DC
Title: Deputy Director, Incident Management and Preparedness Policy, U.S. Coast Guard, DHS
Category: Named Federal Official (designee)



Mr. Reggie Cheatham
Washington, DC
Title: Director, Director, Office of Emergency Management, Office of Solid Waste and Emergency Response, Environmental Protection Agency
Category: Named Federal Official (designee)



FEMA

Subcommittee Members - 2



Mr. Rick Ferguson
Houston, TX
Title: Senior Specialist Emergency Response, Land Transportation, Shell Oil Company
Category: Oil for Transport by Rail



Mr. Peter Ginaitt
Providence, RI
Title: Environmental Health and Safety Officer and Emergency Manager, Rhode Island Public Transit Authority
Category: NAC (NAC Preparedness & Protection Subcommittee Member)



Mr. Scott Gorton
Washington, DC
Title: Manager, Freight Rail Industry Engagement, Office of Security Policy and Industry Engagement, Transportation Security Administration (TSA)
Category: Named Federal Official (co-designee)



Ms. Kaylynn Gresham
Oneida, Wisconsin
Title: Director of Emergency Management, Oneida Nation
Category: Tribal Organizations



Mr. Robert Hall
Washington, DC
Title: Director, Office of Railroad, Pipeline and HAZMAT Investigations, National Transportation Safety Board
Category: Named Federal Official



Ms. Yvonne Hayes
Surfside, FL
Title: Assistant General Chairman for GC 851 and Chairperson for Local 1138, International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART) Transportation Division
Category: Rail Labor



RADM Ronald Hewitt, USCG (Retired)
Washington, DC
Title: Director, Office of Emergency Communications, Office of Cybersecurity and Communications, National Protection and Programs Directorate, DHS
Category: Named Federal Official



Ms. Renee Loh
Bismarck, ND
Title: Executive Director, North Dakota Firefighters' Association (Retired)
Category: Emergency Response Provider (Association) and Training Provider



Chief Timothy McLean
Casselton, ND
Title: Chief, Casselton Volunteer Fire Department
Category: Emergency Response Provider



Chief Joseph Molina
Vancouver, WA
Title: Chief, Vancouver Fire Department
Category: Emergency Response Provider



FEMA

Subcommittee Members - 3



Mr. Gregory Noll
Lancaster, PA
Title: Chair - NFPA Technical Committee on Hazardous Materials / WMD Response Personnel, Interagency Board
Category: Technical Expert



Chief William Offerman
Elwood, IL
Title: Member, National Volunteer Fire Council (NVFC) Board of Directors
Category: Emergency Response Provider (Association)



Ms. Sonya Proctor
Washington, DC
Title: Director, Surface Division, Office of Security Policy and Industry Engagement, Transportation Security Administration
Category: Named Federal Official (co-designee)



Mr. Glen Rudner
Birmingham, AL
Title: HAZMAT Compliance Officer, Norfolk Southern
Category: Rail Industry



Mr. William Schoonover
Washington, DC
Title: Associate Administrator, Office of HAZMAT Safety, PHMSA, DOT
Category: Named Federal Official



Mr. Roland Shook
Midland, MI
Title: Member, TRANSCAER® Executive Committee and Global Associate Director of Emergency Services and Security, Dow Chemical
Category: Vendors, Developers, and Manufacturers for Emergency Responder Services and Training Provider



Ms. Lisa Stabler
Pueblo, CO
Title: President, Transportation Technology Center, Inc. (TTCI), Association of American Railroads
Category: Training Provider



FEMA

Topics

- 1. New and developing technologies and methods that may be beneficial to preparedness and response to rail HAZMAT incidents.**
- 2. Quality and application of rail HAZMAT incident training for emergency responders, including those serving small communities near railroads:**
 - a. Access to training, including the number of individuals trained, number applying for training, whether demand is being met, challenges, and projected needs,
 - b. Modernization of rail HAZMAT incident training,
 - c. Training content overlap and opportunities to develop complementary materials,
 - d. Online training platforms, train-the-trainer, and mobile training options.
- 3. Availability and effectiveness of federal, state, local, and nongovernmental funding for rail HAZMAT incident training, including those serving small communities near railroads:**
 - a. Duplication of resources,
 - b. Cost saving measures,
 - c. Potential public/private partnerships,
 - d. Steps to change agency funding priorities based on emerging trends,
 - e. Historic levels of federal funding for rail HAZMAT incident response and training,
 - f. Current funding across agencies.
- 4. Strategies for integrating commodity flow studies, mapping, and rail and HAZMAT databases for emergency responders and increasing rate of access to individual responder in existing or emerging communications technology.**



FEMA

Charges

Not later than December 16, 2017, the Subcommittee submits a report to the NAC that includes recommendations and timeframes for implementing the recommendations that do not require congressional action.

Not later than 30 days after receipt, the NAC begins a review. The NAC may ask for clarification, changes, or other information from the Subcommittee to assist in approval. Once the NAC approves one or more of the recommendations, the NAC submits the report to:

- Co-chairs of the Subcommittee;
- Head of each agency represented on the RESPONSE Subcommittee;
- Senate Committee on Homeland Security and Governmental Affairs;
- Senate Committee on Commerce, Science, and Transportation;
- House Committee on Homeland Security; and
- House Committee on Transportation and Infrastructure.

Not later than 90 days after the NAC submits the report, the RESPONSE Subcommittee terminates.

After the NAC submits the report, the FEMA Administrator will:

- Provide annual updates to the congressional committees for two years regarding the status of the implementation of the recommendations; and
- Coordinate the implementation of the recommendations, as appropriate.



FEMA

Recommendation #1

PHMSA, working with other Federal agencies, should establish a new voluntary governance structure and process for national planning and training efforts to minimize risks associated with HAZMAT incidents.

Discussion/Considerations:

- Executive Order (EO) 13650, Improving Chemical Facility Safety and Security, directed several Federal agencies to work together to enhance the safety and security of chemical facilities and reduce risks associated with hazardous chemicals to owners and operators, workers, and communities. The EO established a Federal interagency working group to develop and implement a transparent inclusive process and a Federal Action Plan to minimize risks, organized by five thematic areas including community planning and preparedness; Federal operational coordination; data management; policies and regulations; and stakeholder feedback and best practices. As a result, stakeholders are working together to make improvements (see [Actions to Improve Chemical Facility Safety and Security – A Shared Commitment](#)).
- A similar governance structure and process could be established for all HAZMAT incidents, to build on the work of NAC RESPONSE Subcommittee. Many of the challenges noted for rail HAZMAT are not unique to a specific mode of transportation and are in fact common across HAZMAT incidents involving fixed facilities and transportation issues.
- Five of the twenty-six Subcommittee members objected to the idea of new rulemaking on this issue.

Timeframe: 1-2 years, based on program cycles and available funding.



FEMA

Recommendation #2

Within the tiered approach, Federal agencies and training providers should place an emphasis on awareness and operations level training in a local/regional setting with mobile training opportunities.

Discussion/Considerations:

- Given the diversity within the emergency responder community (i.e., career/paid, volunteer/unpaid, urban, rural, and tribal), it is best to provide a variety of training options, using a tiered approach based on competency level (awareness through incident commander) and delivery format (online, mobile, and resident).
- Based on the requirements of U.S. Occupational Safety and Health Administration (OSHA) standard 1910.120, Hazardous Waste Operations and Emergency Response (HAZWOPER), and other national standards, the majority of emergency responders in the U.S. require training at the First Responder Awareness and Operations levels. Local/regional delivery of training by mobile units will help to ease the burden of lost wages for volunteer/unpaid responders and backfill/overtime for career/paid responders. This training should include risk assessment and planning processes for a HAZMAT rail incident.

Timeframe: 1-2 years, based on program cycles and available funding.



FEMA

Recommendation #3

Federal funding opportunities for HAZMAT emergency responder training **should be awarded based on open competition from all qualified organizations**, including for-profit organizations, ensuring the most efficient and effective use of taxpayer funds. Before making changes to relevant programs, **Federal agencies should obtain input from a diverse range of stakeholders, and assess the costs, benefits, and other implications of such changes.**

Discussion/Considerations:

- Currently, many Federal funding opportunities are limited to universities and non-profit organizations. While FEMA funds some for-profit organizations using cooperative agreements, no Federal grants are available to for-profit organizations for HAZMAT training. For-profit organizations can become subcontractors to non-profit organizations; however, this increases costs. By moving to open competition, the Federal government can ensure the training provides the greatest benefit for the responder while being the most cost-efficient for the taxpayer.
- Altering funding allocations and eligibility requirements could have significant implications for the accessibility and availability of training for local responders, as well as capability and capacity for training providers. Before proposing any changes, Federal agencies should review the alignment of such changes with program intent and desired outcomes, obtain input from stakeholders, and assess the costs, benefits, and other implications of such changes including the effectiveness, efficiency, accessibility, and resilience of grant programs for meeting the training needs of local responders.
- Two of the twenty-six Subcommittee members objected to this recommendation.

Timeframe: 1-2 years, based on program cycles and available funding.

Open competition would require congressional action (authorizations and appropriations).



FEMA

Recommendation #4

FEMA and DOT should consider allowing funding from grants, cooperative agreements, or other sources to cover a daily attendance stipend for volunteer/unpaid emergency responders from rural communities, based on demonstrated need.

Discussion/Considerations:

- Volunteer/unpaid rural responders have the option to attend training opportunities that are offered through online, mobile, and resident (on-campus) deliveries. In many cases, these deliveries are sponsored by one or more government sources.
- While career/paid emergency responders can be directed to attend these classes as part of a duty shift, volunteer/unpaid responders must weigh the need for training against the requirements of their full-time paid positions. This often results in the volunteers incurring personal costs, such as the use of paid leave, vacation time, or lost wages to attend training.
- The revision of grant guidance to authorize compensation for volunteer emergency responders from rural communities in the form of a stipend based on demonstrated need would reduce this hardship and enable more individuals to attend training.

Timeframe: May require congressional action (appropriations).



FEMA

Recommendation #5

FEMA and DOT should consider allowing funding from grants, cooperative agreements, or other sources to cover backfill/overtime payments to be granted to career/paid emergency responders from rural communities, based on demonstrated need.

Discussion/Considerations:

- Rural responders have the option to attend classes that are offered both locally and remotely. In many cases, these training deliveries are sponsored by one or more government sources.
- Career/paid emergency responders can be directed to attend these classes as part of a duty shift. While the responder is gone, the agency must arrange for other qualified individuals to perform the trainee's needed duties. Typically, the budgets associated with rural response agencies are limited and unable to pay both the trainee and the individual performing the backfill function.
- The revision of grant guidance to authorize compensation for backfill/overtime costs for career/paid emergency responders from rural communities, based on demonstrated need, would reduce this hardship and enable more individuals to attend training.

Timeframe: May require congressional action (appropriations).



FEMA

Recommendation #6

FEMA should develop plans to coordinate increased communications about training opportunities to tribal communities through the FEMA Regional Tribal Liaisons and Tribal Consultation Coordinators. Coordinated communications with national and regional tribal emergency management organizations should also be included in the plans.

Discussion/Considerations:

- The responsibilities of the Regional Tribal Liaisons and Tribal Consultation Coordinators are identified and outlined in the FEMA Tribal Consultation Policy, FP 101-002.01. “Tribal Consultation Coordinators should be, or receive training to be, familiar with the unique circumstances that affect Indian tribes.” “Regional Tribal Liaisons help Senior Agency officials to identify appropriate Tribal Officials to contact, methods for notification, and preferred methods of consultation.”

Timeframe: 1-2 years, based on program cycles and available funding.



FEMA

Recommendation #7

FEMA should consult with the National Tribal Affairs Advisor, Regional Tribal Liaisons and Tribal Consultation Coordinators to develop recommendations, guidelines or online training to assist any and all responders who will be working with tribal responders and tribal governments.

Discussion/Considerations:

- FEMA should review the course content of the online class “Working Effectively with Tribal Governments” at <https://tribal.golearnportal.org/>. The course has an extensive unit in tribal government structure that could provide a great starting point for the development of online training geared to any responders that may be called to respond to an incident on or near a tribal community or their historic homelands.
- In addition, FEMA and DOT should consider targeting grant funds for train-the-trainer programs for tribal communities.

Timeframe: 1-2 years, based on program cycles and available funding.



FEMA

Recommendation #8

Under the direction of PHMSA and FEMA, create a “railroad emergency response toolkit” in a format that allows for the widest possible dissemination to the emergency responder and emergency management communities.

Discussion/Considerations:

- This toolkit would serve as an informational resource for pre-incident planning and training for responding to railroad emergencies, with a focus on those involving HAZMAT. The intent is to maximize development and sharing of uniform information for responders and planners. The target audience for this toolkit would be fire department commanders and emergency managers at the local and state levels. PHMSA and FEMA should solicit input for the toolkit from the railroads, HAZMAT shippers, and Federal partners. The toolkit should be a compendium of information and information resources that are currently available to emergency responders and emergency managers.
- Two of the twenty-six Subcommittee members objected to this recommendation.

Timeframe: 1-2 years, based on program cycles and available funding.



FEMA

Next Steps

- Review the report and vote on the recommendations.
 - Ask for clarification, changes, or other information from the Subcommittee to assist in approval.
- ONAC submits the NAC-approved version of the report to the:
 - Co-chairs of the Subcommittee;
 - Head of each agency represented on the Subcommittee;
 - Senate Committee on Homeland Security and Governmental Affairs;
 - Senate Committee on Commerce, Science, and Transportation;
 - House Committee on Homeland Security; and
 - House Committee on Transportation and Infrastructure.



FEMA