

DEPARTMENT OF COMMERCE**National Institute of Standards and Technology****15 CFR Part 270****[Docket No: 021224331-2331-01]****RIN 0693-AB52****Procedures for Implementation of the National Construction Safety Team Act**

AGENCY: National Institute of Standards and Technology, United States Department of Commerce.

ACTION: Interim final rule; request for comments.

SUMMARY: The Director of the National Institute of Standards and Technology (NIST), Technology Administration, United States Department of Commerce, requests comments on an interim final rule pertaining to the implementation of the National Construction Safety Team Act ("Act"). This interim final rule with a request for public comments contains general provisions regarding implementation of the Act and establishes procedures for the collection and preservation of evidence obtained and the protection of information created as part of investigations conducted pursuant to the Act.

DATES: This rule is effective on January 30, 2003. Comments must be received no later than March 3, 2003.

ADDRESSES: Comments on the interim final rule must be submitted to: Dr. James E. Hill, Deputy Director, Building and Fire Research Laboratory, National Institute of Standards and Technology, Mail Stop 8600, Gaithersburg, MD 20899-8600, telephone number (301) 975-5900.

FOR FURTHER INFORMATION CONTACT: Dr. James E. Hill, Deputy Director, Building and Fire Research Laboratory, National Institute of Standards and Technology, Mail Stop 8600, Gaithersburg, MD 20899-8600, telephone number (301) 975-5900.

SUPPLEMENTARY INFORMATION:**Background**

The National Construction Safety Team Act, Pub. L. 107-231, was enacted to provide for the establishment of investigative teams ("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. The purpose of investigations by Teams is to improve the safety and structural integrity of buildings in the United States. A Team

will (1) Establish the likely technical cause or causes of the building failure; (2) evaluate the technical aspects of evacuation and emergency response procedures; (3) recommend, as necessary, specific improvements to building standards, codes, and practices based on the findings made pursuant to (1) and (2); and recommend any research and other appropriate actions needed to improve the structural safety of buildings, and improve evacuation and emergency response procedures, based on the findings of the investigation. Section 2(c)(1) of the Act requires that the Director develop procedures for certain activities to be carried out under the Act as follows: Regarding conflicts of interest related to service on a Team; defining the circumstances under which the Director will establish and deploy a Team; prescribing the appropriate size of Teams; guiding the disclosure of information under section 7 of the Act; guiding the conduct of investigations under the Act; identifying and prescribing appropriate conditions for provision by the Director of additional resources and services Teams may need; to ensure that investigations under the Act do not impede and are coordinated with any search and rescue efforts being undertaken at the site of the building failure; for regular briefings of the public on the status of the investigative proceedings and findings; guiding the Teams in moving and preserving evidence; providing for coordination with Federal, State, and local entities that may sponsor research or investigations of building failures; and regarding other issues.

NIST plans to publish two separate documents in the **Federal Register** regarding procedures to implement the Act. This interim final rule with a request for public comments contains general provisions regarding implementation of the Act and establishes procedures for the collection and preservation of evidence obtained and the protection of information created as part of investigations conducted pursuant to the Act, including guiding the disclosure of information under section 7 of the Act (§§ 270.350, 270.351, and 270.352) and guiding the Teams in moving and preserving evidence (§ 270.330). These general provisions and procedures, which will comprise Subparts A and D of the rule, are necessary to the conduct of the investigation of the World Trade Center disaster, already underway, and are effective immediately. At a later date, NIST plans to publish in the **Federal Register** a notice of proposed

rulemaking and request for comments, establishing the remaining procedures necessary for implementation of the Act.

Request for Public Comment: Persons interested in commenting on the interim final rule should submit their comments in writing to the above address. All comments received in response to this notice will become part of the public record and will be available for inspection and copying at the Department of Commerce Central Reference and Records Inspection facility, room 6228, Hoover Building, Washington, DC 20230.

Additional Information**Executive Order 12866**

This rule has been determined not to be significant under section 3(f) of Executive Order 12866.

Executive Order 12612

This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Administrative Procedure Act

Prior notice and an opportunity for public comment are not required for this rule of agency organization, procedure, or practice. 5 U.S.C. 553(b)(A).

Regulatory Flexibility Act

Because notice and comment are not required under 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. As such, a regulatory flexibility analysis is not required, and none has been prepared.

Paperwork Reduction Act

Notwithstanding any other provision of the law, no person is required to, nor shall any person be subject to penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

There are no collections of information involved in this rulemaking.

National Environmental Policy Act

This rule will not significantly affect the quality of the human environment. Therefore, an environmental assessment or Environmental Impact Statement is not required to be prepared under the National Environmental Policy Act of 1969.