

DEPARTMENT OF COMMERCE**National Institute of Standards and Technology****15 CFR Part 270****[Docket No. 030421094-3094-01]****RIN 0693-AB53****Procedures for Implementation of the National Construction Safety Team Act**

AGENCY: National Institute of Standards and Technology, 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"). The interim final rule clarifies NIST's role in recommending improvements to building codes, standards, and practices, and clarifies the relationship between investigations conducted under the Act and criminal investigations of the same building failure. The interim final rule also establishes procedures regarding the establishment and deployment of National Construction Safety Teams ("Teams") and for the conduct of investigations under the Act.

DATES: This interim rule is effective November 28, 2003. Comments must be received no later than December 29, 2003.

ADDRESSES: Comments on the interim final rule regulations must be submitted to: Dr. James E. Hill, Acting 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, Acting 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 (4) 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 published an interim final rule with a request for public comments in the **Federal Register** on January 30, 2003 (68 FR 4693), seeking public comment on general provisions regarding implementation of the Act and on provisions establishing 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, comprising Subparts A and D of the rule, are

necessary to the conduct of the investigation of the World Trade Center disaster, already underway, and became effective immediately upon publication. The comment period closed on March 3, 2003. On May 7, 2003, NIST published a final rule in the **Federal Register** (68 FR 24343), addressing the comments received.

The interim final rule amends section 270.1, Description of rule; purpose, applicability, of the final rule to clarify NIST's role in recommending improvements to building codes, standards, and practices and to clarify the relationship between investigations conducted under the Act and criminal investigations of the same building failure. This interim final rule also amends the definition of Credentials, contained in section 270.2, to clarify that credentials are issued by the Director of NIST and to better define the term. This interim final rule also sets forth procedures regarding conflicts of interest related to service on a Team (section 270.106); defining the circumstances under which the Director will establish and deploy a Team (section 270.102); prescribing the appropriate size of Teams (section 270.104); guiding the conduct of investigations under the Act (section 270.200); identifying and prescribing appropriate conditions for provision by the Director of additional resources and services Teams may need (section 270.204); 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 (section 270.202); for regular briefings of the public on the status of the investigative proceedings and findings (section 270.206); providing for coordination with Federal, State, and local entities that may sponsor research or investigations of building failures (section 270.203); and regarding other issues. This interim final rule also amends section 270.313, Requests for Evidence, to clarify that collections of evidence under that section are investigatory in nature and are not research.

Research 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.