

*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). However, NIST feels it important to seek public comment on the issues addressed in this rule.

## 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.

**List of Subjects in 15 CFR Part 270**

Administrative practice and procedure; investigations; buildings and facilities; evidence; subpoena.

Dated: November 21, 2003.

**Arden L. Bement, Jr.,**  
*Director.*

■ For the reasons set forth in the preamble, the National Institute of Standards and Technology amends 15 CFR Part 270 as follows:

**PART 270—NATIONAL CONSTRUCTION SAFETY TEAMS**

■ 1. The authority citation for Part 270 as follows:

**Authority:** Pub. L. 107–231, 116 Stat. 1471 (15 U.S.C. 7301 *et seq.*).

■ 2. Section 270.1 is amended by revising paragraph (b) to read as follows:

**§ 270.1. Description of rule; purpose, applicability.**

\* \* \* \* \*

(b)(1) The purpose of investigations by Teams is to improve the safety and structural integrity of buildings in the United States. The role of NIST in implementing the Act is to understand the factors contributing to the building failure and to develop recommendations for improving national building and fire model codes, standards, and practices. To do this, the Teams produce technical reports containing data, findings, and recommendations for consideration by private sector bodies responsible for the affected national building and fire model code, standard, or practice. While NIST is an active participant in many of these organizations, NIST's recommendations are one of many factors considered by these bodies. NIST is not now and will not become a participant in the processes and adoption of practices, standards, or codes by state or local regulatory authorities.

(2) It is not NIST's role to determine whether a failed building resulted from a criminal act, violated any applicable federal requirements or state or local code or regulatory requirements, or to determine any culpability associated therewith. These are matters for other federal, state, or local authorities, who enforce their regulations.

\* \* \* \* \*

■ 3. Section 270.2 is amended by revising the definition of *Credentials* to read as follows:

**§ 270.2 Definitions used in this part.**

\* \* \* \* \*

*Credentials.* Credentials issued by the Director, identifying a person as a member of a National Construction Safety Team, including photo identification and other materials, including badges, deemed appropriate by the Director.

\* \* \* \* \*

■ 4. Add new subparts B and C to read as follows:

**Subpart B—Establishment and Deployment of Teams**

270.100 General.

270.101 Preliminary reconnaissance.

270.102 Conditions for establishment and deployment of a team.

270.103 Publication in the **Federal Register**.

270.104 Size and composition of a team.

270.105 Duties of a team.

270.106 Conflicts of interest related to service on a team.

**Subpart C—Investigations**

270.200 Technical conduct of investigation.

270.201 Priority of investigation.

270.202 Coordination with search and rescue efforts.

270.203 Coordination with Federal, State, and local entities.

270.204 Provision of additional resources and services needed by a team.

270.205 Reports.

270.206 Public briefings and requests for information.

**Subpart B—Establishment and Deployment of Teams****§ 270.100 General.**

(a) Historically, in the United States building failures from fire, earthquake, hurricanes, tornadoes, and other disasters that have “resulted in substantial loss of life or that posed significant potential for substantial loss of life” have occurred at a frequency of less than once per year. It is expected that this pattern is likely to continue in the future. Acts of terrorism causing a building failure may occur at any time.

(b) For purposes of this part, a building failure may involve one or more of the following: structural system, fire protection (active or passive) system, air-handling system, and building control system. Teams established under the Act and this part will investigate these technical causes of building failures and will also investigate the technical aspects of evacuation and emergency response procedures, including multiple-occupant behavior or evacuation (egress or access) system, emergency response system, and emergency communication system.

(c) For purposes of this part, the number of fatalities considered to be “substantial” will depend on the nature of the event, its impact, its unusual or unforeseen character, historical norms, and other pertinent factors.

**§ 270.101 Preliminary reconnaissance.**

(a) To the extent the Director deems it appropriate, the Director may conduct a preliminary reconnaissance at the site of a building failure. The Director may establish and deploy a Team to conduct the preliminary reconnaissance, as described in § 270.102 of this subpart, or may have information gathered at the site of a building failure without establishing a Team.

(b) If the Director establishes and deploys a Team to conduct the