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This proceeding shall be treated as a "permit but disclose" proceeding in accordance with the Commission's *ex parte* rules, 47 CFR 1.1200. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substances of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclosed proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

The full text of this document and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, (202) 418-0270. This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing (BCPI), Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. at their Web site: [www.bcpweb.com](http://www.bcpweb.com) or by calling 1-800-378-3160.

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## Synopsis

On July 28, 2004, Express Consolidation, Inc. (Express or Petitioner) filed a petition for declaratory ruling asking the Commission to preempt a Florida telemarketing law, Florida Statute, section 501.059 (Florida Statute). According to Petitioner, Express has been charged in a complaint by the Florida Department of Agriculture and Consumer Services with violating the Florida Statute, which restricts the making of telephonic sales calls to Florida citizens whose names appear on the state's quarterly "no sales solicitation calls listing." The Florida law also restricts the use of automatic dialing systems and artificial or prerecorded messages to make sales calls. Express contends that the Florida Statute is inconsistent with the Telephone Consumer Protection Act (TCPA) by placing more onerous restrictions on the making of interstate telephone calls by a tax-exempt nonprofit organization. Express indicates that, unlike the Florida Statute, the TCPA exempts calls made by tax-exempt nonprofit organizations from the restrictions on "telephone solicitations." Express further explains that the calls that are the basis of the state's enforcement action are made on behalf of Express, a nonprofit corporation with offices in Florida, by a California company. Express maintains that the TCPA authorizes a state to implement more restrictive regulations only with respect to intrastate calls; therefore, the state law should be preempted.

Federal Communications Commission.

### Jay Keithley,

*Deputy Chief, Consumer & Governmental Affairs Bureau.*

[FR Doc. 04-23295 Filed 10-15-04; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### Performance Review Board

As required by the Civil Service Reform Act of 1978 (Pub. L. 95-454), Chairman Michael K. Powell appointed the following executives to the Performance Review Board: Julius Knapp, Renee Licht, Mary Beth Richards, and David Solomon.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. 04-23291 Filed 10-15-04; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Sunshine Act; Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that, at 10:30 a.m. on Tuesday, October 12, 2004, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and liquidation activities.

In calling the meeting, the Board determined, on motion of Vice Chairman John M. Reich, seconded by Director Thomas J. Curry, concurred in by Director James E. Gilleran (Office of Thrift Supervision), Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no notice of the meeting earlier than October 7, 2004, was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: October 12, 2004.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. E4-2689 Filed 10-15-04; 8:45 am]

**BILLING CODE 6714-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Agency for Healthcare Research and Quality, HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) allow the proposed information collection project: