

**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.

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

preliminary reconnaissance, the Team shall perform all duties pursuant to section 2(b)(2) of the Act, and may perform all activities that Teams are authorized to perform under the Act and these procedures, including gathering and preserving evidence. At the completion of the preliminary reconnaissance, the Team will report its findings to the Director in a timely manner. The Director may either determine that the Team should conduct further investigation, or may direct the Team to prepare its public report immediately.

(c) If the preliminary reconnaissance is conducted without the establishment of a Team, the leader of the initial assessment will report his/her findings to the Director in a timely manner. The Director will decide whether to establish a Team and conduct an investigation using the criteria established in § 270.102 of this subpart.

#### **§ 270.102 Conditions for establishment and deployment of a Team.**

(a) The Director may establish a Team for deployment after an event that caused the failure of a building or buildings that resulted in substantial loss of life or posed significant potential for substantial loss of life. The Director will determine the following prior to deploying a Team:

(1) The event was any of the following:

(i) A major failure of one or more buildings or types of buildings due to an extreme natural event (earthquake, hurricane, tornado, flood, *etc.*);

(ii) A fire that resulted in major damage or destruction of the building of origin, and/or that spread beyond the building of origin;

(iii) A major building failure at significantly less than its design basis, during construction, or while in active use; or

(iv) An act of terrorism or other event resulting in a Presidential declaration of disaster and activation of the Federal Response Plan; and

(2) A fact-finding investigation of the building performance and emergency response and evacuation procedures will likely result in significant and new knowledge or building code revision recommendations needed to reduce public risk and economic losses from future building failures.

(b) In making the determinations pursuant to paragraph (a) of this section, the Director will consider the following:

(1) Whether sufficient financial and personnel resources are available to conduct an investigation; and

(2) Whether an investigation of the building failure warrants the advanced

capabilities and experiences of a Team; and

(3) If the technical cause of the failure is readily apparent, whether an investigation is likely to result in relevant knowledge other than reaffirmation of the technical cause; and

(4) Whether deployment of a Team will substantially duplicate local or state resources equal in investigatory and analytical capability and quality to a Team; and

(5) Recommendations resulting from a preliminary reconnaissance of the site of the building failure.

(c) To the maximum extent practicable, the Director will establish and deploy a Team within 48 hours after such an event.

#### **§ 270.103 Publication in the Federal Register.**

The Director will promptly publish in the **Federal Register** notice of the establishment of each Team.

#### **§ 270.104 Size and composition of a team.**

(a) *Size of a Team.* The size of a Team will depend upon the likely scope and complexity of the investigation. A Team may consist of five or less members if the investigation is narrowly focused, or a Team may consist of twenty or more members divided into groups if the breadth of the investigation spans a number of technical issues. In addition, Teams may be supported by others at NIST, in other federal agencies, and in the private sector, who may conduct supporting experiments, analysis, interviews witnesses, and/or examine the response of first responders, occupants, etc.

(b) *Composition of a Team.* (1) A Team will be composed of individuals selected by the Director and led by a Lead Investigator designated by the Director.

(2) The Lead Investigator will be a NIST employee, selected based on his/her technical qualifications, ability to mobilize and lead a multi-disciplinary investigative team, and ability to deal with sensitive issues and the media.

(3) Team members will include at least one employee of NIST and will include experts who are not employees of NIST, who may include private sector experts, university experts, representatives of professional organizations with appropriate expertise, and appropriate Federal, State, or local officials.

(4) Team members who are not Federal employees will be Federal Government contractors.

(5) Teams may include members who are experts in one or more of the following disciplines: civil, mechanical,

fire, forensic, safety, architectural, and materials engineering, and specialists in emergency response, human behavior, and evacuation.

(c) *Duration of a Team.* A Team's term will end 3 months after the Team's final public report is published, but the term may be extended or terminated earlier by the Director.

#### **§ 270.105 Duties of a team.**

(a) A Team's Lead Investigator will organize, conduct, and control all technical aspects of the investigation, up to and including the completion of the final investigation public report and any subsequent actions that may be required. The Lead Investigator has the responsibility and authority to supervise and coordinate all resources and activities of NIST personnel involved in the investigation. The Lead Investigator may be the Contracting Officer's Technical Representative (COTR) on any contract for service on the Team or in support of the Team; while the COTR remains the technical representative of the Contracting Officer for purposes of contract administration, the Lead Investigator will oversee all NIST personnel acting as COTRs for contracts for service on the Team or in support of the Team. The Lead Investigator's duties will terminate upon termination of the Team. The Lead Investigator will keep the Director and the NCST Advisory Committee informed about the status of investigations.

(b) 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 paragraphs (b)(1) and (b)(2) of this section;

(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; and

(5) Not later than 90 days after completing an investigation, issue a public report in accordance with § 270.205 of this subpart.

(c) In performing these duties, a Team will:

(1) Not interfere unnecessarily with services provided by the owner or operator of the buildings, building components, materials, artifacts, property, records, or facility;

(2) Preserve evidence related to the building failure consistent with the ongoing needs of the investigation;

(3) Preserve evidence related to a criminal act that may have caused the building failure;

(4) Not impede and coordinate its investigation with any search and rescue efforts being undertaken at the site of the building failure;

(5) Coordinate its investigation with qualified researchers who are conducting engineering or scientific research (including social science) relating to the building failure;

(6) Cooperate with State and local authorities carrying out any activities related to a Team's investigation;

(d) In performing these duties, in a manner consistent with the procedures set forth in this part, a Team may:

(1) Enter property where a building failure being investigated has occurred and take necessary, appropriate, and reasonable action to carry out the duties described in paragraph (b) of this section;

(2) Inspect any record, process, or facility related to the investigation during reasonable hours;

(3) Inspect and test any building components, materials, and artifacts related to the building failure; and

(4) Move records, components, materials, and artifacts related to the building failure.

#### **§ 270.106 Conflicts of interest related to service on a Team.**

(a) Team members who are not Federal employees will be Federal Government contractors.

(b) Contracts between NIST and Team members will include appropriate provisions to ensure that potential conflicts of interest that arise prior to award or during the contract are identified and resolved.

#### **Subpart C—Investigations**

##### **§ 270.200 Technical conduct of investigation.**

(a) *Preliminary reconnaissance.* (1) An initial assessment of the event, including an initial site reconnaissance, if deemed appropriate by the Director, will be conducted. This assessment will be done within a few hours of the event, if possible. The Director may establish and deploy a Team to conduct the preliminary reconnaissance, using the criteria established in § 270.102 of this part, or may have information gathered at the site of a building failure without establishing a Team.

(2) If the Director establishes and deploys a Team to conduct the preliminary reconnaissance, the Team shall perform all duties pursuant to section 2(b)(2) of the Act, and may perform all activities that Teams are

authorized to perform under the Act and these procedures, with a focus on gathering and preserving evidence, inspecting the site of the building failure, and interviewing of eyewitnesses, survivors, and first responders. Collections of evidence by a Team established for preliminary reconnaissance are investigatory in nature and will not be considered research for any purpose. At the completion of the preliminary reconnaissance, the Team will report its findings to the Director in a timely manner. The Director may either determine that the Team should conduct further investigation, or may direct the Team to immediately prepare the public report as required by section 8 of the Act.

(3) If the preliminary reconnaissance is conducted without the establishment of a Team, the leader of the initial assessment will report his/her findings to the Director in a timely manner. The Director will decide whether to establish a team and conduct an investigation using the criteria established in § 270.102 of this part.

(b) *Investigation plan.* (1) If the Director establishes a Team without ordering preliminary reconnaissance, establishes a Team after preliminary reconnaissance, or establishes a Team to conduct preliminary reconnaissance and subsequently determines that further investigation is necessary prior to preparing the public report required by section 8 of the Act, the Director, or his/her designee, will formulate a plan that includes:

(i) A brief description of the building failure;

(ii) The criteria upon which the decision to conduct the investigation was based;

(iii) Supporting effort(s) by other organizations either in place or expected in the future;

(iv) Identification of the Lead Investigator and Team members;

(v) The technical investigation plan;

(vi) Site, community, and local, state, and Federal agency liaison status; and

(vii) Estimated duration and cost.

(2) To the extent practicable, the Director will include the most appropriate expertise on each Team from within NIST, other government agencies, and the private sector. The NCST Advisory Committee may be convened as soon as feasible following the launch of an investigation to provide the Director the benefit of its advice on investigation Team activities.

(c) *Investigation.* (1) The duration of an investigation that proceeds beyond preliminary reconnaissance will be as little as a few months to as long as a few

years depending on the complexity of the event.

(2) Tasks that may be completed during investigations that proceed beyond preliminary reconnaissance include:

(i) Consult with experts in building design and construction, fire protection engineering, emergency evacuation, and members of other investigation teams involved in the event to identify technical issues and major hypotheses requiring investigation.

(ii) Collect data from the building(s) owner and occupants, local authorities, and contractors and suppliers. Such data will include relevant building and fire protection documents, records, video and photographic data, field data, and data from interviews and other oral and written accounts from building occupants, emergency responders, and other witnesses.

(iii) Collect and analyze physical evidence, including material samples and other forensic evidence, to the extent they are available.

(iv) Determine the conditions in the building(s) prior to the event, which may include the materials of construction and contents; the location, size, and condition of all openings that may have affected egress, entry, and fire conditions (if applicable); the installed security and/or fire protection systems (if applicable); the number of occupants and their approximate locations at the time of the event.

(v) Reconstruct the event within the building(s) using computer models to identify the most probable technical cause (or causes) of the failure and the uncertainty(ies) associated with it (them). Such models may include initial damage, blast effects, pre-existing deficiencies and phenomena such as fire spread, smoke movement, tenability, occupant behavior and response, evacuation issues, cooperation of security and fire protection systems, and building collapse.

(vi) Conduct small and full-scale experiments to provide additional data and verify the computer models being used.

(vii) Examine the impact of alternate building/system/equipment design and use on the survivability of the building and its occupants.

(viii) Analyze emergency evacuation and occupant responses to better understand the actions of the first responders and the impediments to safe egress encountered by the occupants.

(ix) Analyze the relevant building practices to determine the extent to which the circumstances that led to this building failure have regional or national implications.

(x) Identify specific areas in building and fire codes, standards, and building practices that may warrant revisions based on investigation findings.

(xi) Identify research and other appropriate actions required to help prevent future building failures.

(d) If a disaster site contains multiple building failures, the Director will narrow the scope of the investigation plan taking into account available financial and personnel resources, and giving priority to failures offering the most opportunity to advance the safety of building codes. The Director may consider the capabilities of NIST in establishing priorities.

#### § 270.201 Priority of investigation.

(a) *General.* Except as provided in this section, a Team investigation will have priority over any other investigation of any other Federal agency.

(b) *Criminal acts.* (1) If the Attorney General, in consultation with the Director, determines, and notifies the Director that circumstances reasonably indicate that the building failure being investigated by a Team may have been caused by a criminal act, the Team will relinquish investigative priority to the appropriate law enforcement agency.

(2) If a criminal investigation of the building failure being investigated by a Team is initiated at the state or local level, the Team will relinquish investigative priority to the appropriate law enforcement agency.

(3) The relinquishment of investigative priority by the Team will not otherwise affect the authority of the Team to continue its investigation under the Act.

(c) *National Transportation Safety Board.* If the National Transportation Safety Board is conducting an investigation related to an investigation of a Team, the National Transportation Safety Board investigation will have priority over the Team investigation. Such priority will not otherwise affect the authority of the Team to continue its investigation under the Act.

(d) Although NIST will share any evidence of criminal activity that it obtains in the course of an investigation under the Act with the appropriate law enforcement agency, NIST will not participate in the investigation of any potential criminal activity.

#### § 270.202 Coordination with search and rescue efforts.

NIST will coordinate its investigation with any search and rescue or search and recovery efforts being undertaken at the site of the building failure, including local FEMA offices and local emergency response groups. Upon arrival at a

disaster site, the Lead Investigator will identify the lead of the search and rescue operations and will work closely with that person to ensure coordination of efforts.

#### § 270.203 Coordination with Federal, State, and local entities.

NIST will enter into Memoranda of Understanding with Federal, State, and local entities, as appropriate, to ensure the coordination of investigations.

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

The Director will determine the appropriate resources that a Team will require to carry out its investigation and will ensure that those resources are available to the Team.

#### § 270.205 Reports.

(a) Not later than 90 days after completing an investigation, a Team shall issue a public report which includes:

(1) An analysis of the likely technical cause or causes of the building failure investigated;

(2) Any technical recommendations for changes to or the establishment of evacuation or emergency response procedures;

(3) Any recommended specific improvements to building standards, codes, and practices; and

(4) Recommendations for research and other appropriate actions needed to help prevent future building failures.

(b) A Team that is directed to prepare its public report immediately after conducting a preliminary reconnaissance will issue a public report not later than 90 days after completion of the preliminary reconnaissance. The public report will be in accordance with paragraph (a) of this section, but will be summary in nature.

(c) A Team that continues to conduct an investigation after conducting a preliminary reconnaissance will issue a public report not later than 90 days after completing the investigation in accordance with paragraph (a) of this section.

#### § 270.206 Public briefings and requests for information.

(a) NIST will establish methods to provide updates to the public on its planning and progress of an investigation. Methods may include:

(1) A public Web site;

(2) Mailing lists, to include an emphasis on e-mail;

(3) Semi-annual written progress reports;

(4) Media briefings; and

(5) Public meetings.

(b) Requests for information on the plans and conduct of an investigation should be submitted to the NIST Public and Business Affairs Division.

■ 5. Section 270.313 is amended by adding new paragraph (c) to read as follows:

#### § 270.313 Requests for evidence.

\* \* \* \* \*

(e) Collections of evidence under paragraphs (b), (c), and (d) of this section are investigatory in nature and will not be considered research for any purpose.

■ 6. Section 270.315 is amended by revising paragraph (a) to read as follows:

#### § 270.315 Subpoenas.

(a) *General.* Subpoenas requiring the attendance of witnesses or the production of documentary or physical evidence for the purpose of taking depositions or at a hearing may be issued only under the signature of the Director with the concurrence of the General Counsel, but may be served by any person designated by the Counsel for NIST on behalf of the Director.

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[FR Doc. 03-29615 Filed 11-26-03; 8:45 am]

BILLING CODE 3510-13-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9090]

RIN 1545-BC31

#### Limitation on Use of the Nonaccrual-Experience Method of Accounting Under Section 448(d)(5); Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to temporary regulations.

**SUMMARY:** This document contains corrections to temporary regulations that were published in the **Federal Register** on September 4, 2003 (68 FR 52496) that revises temporary income tax regulations to providing guidance regarding the use of a nonaccrual-experience method of accounting by taxpayers using an accrual method of accounting and performing services.

**EFFECTIVE DATE:** This correction is effective September 4, 2003.

**FOR FURTHER INFORMATION CONTACT:** Terrance McWhorter (202) 622-4970 (not a toll free number).

**SUPPLEMENTARY INFORMATION:**