

size class and foraging habitats and movements.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the amendment request to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: January 21, 2003.

**Stephen L. Leathery**,

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 03-1907 Filed 1-27-03; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

Docket No. 010222048-3014-08

#### The Utility Service Cancellation Notices Exception to the Electronic Signatures in Global and National Commerce Act

**AGENCY:** National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce

**ACTION:** Notice, Request For Comments

**SUMMARY:** Section 101 of the Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, *codified at* 15 U.S.C. 7001 *et seq.* ("ESIGN" or "the Act"), preserves the legal effect, validity, and enforceability of signatures and contracts relating to electronic transactions and electronic signatures used in the formation of electronic contracts. 15 U.S.C. 7001(a). Section 103 (a) and (b) of the Act, however, provides that the provisions of section 101 do not apply to contracts and records governed by statutes and regulations regarding court documents; probate and domestic law matters; state commercial law; consumer law covering utility services, residential property foreclosures and defaults, and insurance benefits; product recall notices; and hazardous materials documents. Section 103 of the Act also requires the Secretary of Commerce, through the Assistant Secretary for Communications and Information, to review the operation of these exceptions to evaluate whether they continue to be necessary for consumer protection, and

to make recommendations to Congress based on this evaluation. 15 U.S.C. 7003(c)(1). This Notice is intended to solicit comments from interested parties for purposes of this evaluation, specifically on the utility cancellation notices exception to the ESIGN Act. *See* 15 U.S.C. 7003(a)(3). NTIA has published separate notices requesting comment on the other exceptions listed in section 103 of the ESIGN Act.<sup>1</sup>

**DATES:** Written comments and papers are requested to be submitted on or before March 31, 2003.

**ADDRESSES:** Written comments should be submitted to Josephine Scarlett, National Telecommunications and Information Administration, 14th Street and Constitution Ave., N.W., Washington, DC 20230. Paper submissions should include a three and one-half inch computer diskette in HTML, ASCII, Word, or WordPerfect format (please specify version). Diskettes should be labeled with the name and organizational affiliation of the filer, and the name of the word processing program used to create the document. In the alternative, comments may be submitted electronically to the following electronic mail address: *esignstudy\_utilnot@ntia.doc.gov*. Comments submitted via electronic mail also should be submitted in one or more of the formats specified above.

**FOR FURTHER INFORMATION CONTACT:** For questions about this request for comment, contact: Josephine Scarlett, Attorney, Office of the Chief Counsel, NTIA, 14th Street and Constitution Ave., N.W., Washington, DC 20230, telephone (202) 482-1816 or electronic mail: *jscarlett@ntia.doc.gov*. Media inquiries should be directed to the Office of Public Affairs, National Telecommunications and Information Administration, at (202) 482-7002.

#### SUPPLEMENTARY INFORMATION:

**Background: Electronic Signatures in Global and National Commerce Act** Congress enacted the Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), to facilitate the use of electronic records and signatures in interstate and foreign commerce and to

<sup>1</sup> Comments submitted in response to the **Federal Register** notices requesting comment on the other exceptions to ESIGN will be considered as part of the same section 103 evaluation and not as part of a separate review of the Act. Notices have been published on the following exceptions to ESIGN: court, family law, and hazardous materials documents; wills; product recall, housing default, and insurance cancellation notices; and contracts governed by state uniform commercial law. *See* 67 Fed. Reg. 56277, 56279, 59828, 61599, 63379, 69201, 75849, and 78421.

remove uncertainty about the validity of contracts entered into electronically. Section 101 requires, among other things, that electronic signatures, contracts, and records be given legal effect, validity, and enforceability. Sections 103(a) and (b) of the Act provides that the requirements of section 101 shall not apply to contracts and records governed by statutes and regulations regarding: court documents; probate and domestic law matters; state commercial law; consumer law covering utility services, residential default and foreclosure notices, and insurance benefits cancellation notices; product recall notices; and hazardous materials documents.

The statutory language providing for an exception to section 101 of ESIGN for utility cancellation or disconnection notices is found in section 103(b) of the Act:

*Sec. 103. [15 U.S.C. 7003] Specific Exceptions.*

\* \* \* \*

(b) *Additional Exceptions.*—The provisions of section 101 shall not apply to—

(2) any notice of—

(A) the cancellation or termination of utility services (including water, heat, and power);

\* \* \* \*

The statutory language requiring the Assistant Secretary for Communications and Information to submit a report to Congress on the results of the evaluation of the section 103 exceptions to the ESIGN Act is found in section 103(c)(1) of the Act as set forth below.

(c) *Review of Exceptions.*—

(1) *Evaluation required.*— The Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall review the operation of the exceptions in subsections (a) and (b) to evaluate, over a period of 3 years, whether such exceptions continue to be necessary for the protection of consumers. Within 3 years after the date of enactment of this Act, the Assistant Secretary shall submit a report to Congress on the results of such evaluation.

#### Utility Service Cancellation Notices

The rates, terms and conditions of service provided by electric, gas, telephone, water and sewer companies are governed by federal and state laws and regulations. These federal, state, and municipal regulations prescribe methods and procedures that govern how utility companies make voluntary and involuntary terminations of service to customers, and how notices of

pending terminations are provided to customers. On the federal level, there are regulations that instruct utility companies on the procedure for notifying utility customers of pending cancellations of service. The Federal Communications Commission's (FCC) regulations, for example, contain several provisions that direct long distance telephone service providers to give their customers written notice upon discontinuance of service. The FCC's rules require that all domestic carriers apply to the FCC for authority to discontinue service, and, as part of that application, to notify all affected customers of a planned discontinuance of service and submit a copy of the application to the public utility commission and to the government of the state in which the discontinuance is proposed, as well as to the Secretary of Defense. 47 CFR 63.71(a). Non-dominant international carriers are also required to provide written notice to customers at least 60 days prior to discontinuance of service. See 47 CFR 63.19. Although the FCC's rules require written notice, they do not specifically prohibit the use of electronic methods to transmit the notice to customers.

The FCC's rules allow some transactions and communications to be made by electronic means, including electronic posting of the terms and conditions of service that describe the procedure for termination of service. The FCC allows telephone companies to use electronic methods and signatures for letters of agency, and authorizations or verification of a subscriber's request to change his or her preferred carrier selection. See 47 CFR 64.1130. These rules require that letters of agency submitted with an electronic signature include the consumer disclosures required by section 101(c) of ESIGN. 47 CFR 64.1130(i). In the *Domestic Detariffing Order*<sup>2</sup> and the *International Detariffing Order*<sup>3</sup>, the FCC also allowed long distance carriers to provide information regarding rates and conditions of service on Internet web

<sup>2</sup> Second Report and Order, 11 FCC Rcd 20,730 (1996) (*Domestic Detariffing Order*); stay granted, *MCI Telecommunications Corp. v. FCC*, No. 96-1459 (D.C. Cir. Feb. 13, 1997); Order on Reconsideration, 12 FCC Rcd 15,014 (1997) (*Domestic Detariffing Order* on Reconsideration); Second Order on Reconsideration and Erratum, 14 FCC Rcd 6004 (1999) (*Domestic Detariffing Second Order on Reconsideration*); stay lifted and aff'd, *MCI WorldCom, Inc., et al. v. FCC*, 209 F.3d 760 (D.C. Cir. April 28, 2000), Memorandum Report and Order, DA 00-2586 (CCB, rel. Nov. 17, 2000) (*Domestic Transition Order*).

<sup>3</sup> In the Matter of 2000 Biennial Regulatory Review, Policy Concerning the International, Interexchange Marketplace, Report and Order, 16 FCC Rcd 10,647 (2001) (*International Detariffing Order*).

sites rather than through traditional tariff filings. See 47 CFR § 42.10, 61.72. As part of the congressional energy conservation policies adopted in the early and mid 1990s, Congress enacted special rules and standard procedures for utility companies to follow during terminations of gas and electric service. See 15 U.S.C. 3204; 16 U.S.C. 2625(g). These rules refer to procedures that are to be prescribed by state utility and regulatory commissions directing utility service providers to provide reasonable prior notice to consumers of pending termination or discontinuance of service and to allow consumers an opportunity to dispute the reasons for the termination. *Id.* In general, states and municipal governments have adopted regulations to govern disconnection notice procedures for utility companies.

In some cases, these regulations also apply to municipal utilities as well as privately-owned companies. For example, Nebraska's regulations provide that: "[n]o municipal utility owned and operated by a village furnishing water, natural gas or electricity at retail . . . shall discontinue service to any domestic subscriber for nonpayment of any past due account unless such utility first gives written notice by mail to any subscriber at least seven days prior to termination." Neb.Rev.Stat. Ann. § 70-1603 (2002). Under this regulation, notice must be given to the consumer by first-class mail or in person and service must continue for at least seven days after notice has been given. *Id.* at § 70-1605. The amount of time for each notice varies among the states; however, most states require written notice of utility service disconnection to be given in advance by mail or in person.<sup>4</sup>

The ESIGN exception for utility cancellation notices means utility companies are not allowed to provide notices of cancellation of gas, water, telephone, or electric service through electronic means or using an electronic signature. Approximately 40 states have adopted Uniform Electronic Transactions Act (UETA) laws, which allows the states to be removed from the operation of ESIGN by adopting their own electronic transactions law in accordance with section 102(a)(1) of ESIGN. See National Conference of Commissioners on Uniform State Laws at <http://www.nccusl.org/nccusl/LegislativeByState.pdf>. The utility cancellation notice exception has not been incorporated into all state uniform electronic transactions laws, and therefore, electronic notice of utility

<sup>4</sup> Compare New Hampshire, N.H.Rev. Stat. Ann. § 363.B:1(2002) (10days) and New York, N.Y.[Pub.Serv.] § 34.1(2002) (15days).

cancellation may be allowed by some states. The absence of an exception in a state UETA law for utility cancellation notices does not automatically make these documents subject to that law. In some cases, the state or municipal utility laws and regulations control the format and procedure for providing notice to consumers of cancellation of utility services and may authorize formats other than paper writings.

The ESIGN section 103 evaluation of the utility cancellation notices exception is intended to evaluate the current status of the law and procedure regarding this issue in preparation for a report to Congress on whether this exception remains necessary to protect consumers. This evaluation is not a review or analysis of laws relating to these documents for the purpose of recommending that Congress draft legislation or propose changes to those laws, but to advise Congress of the current state of law, practice, and procedure regarding this issue since the passage of the ESIGN Act in 2000. Comments filed in response to this Notice should not be considered to have a connection with or impact on specific, ongoing federal and state court proceedings or administrative rulemaking proceedings concerning utility cancellation notices.

#### Invitation to Comment

NTIA requests that interested parties, including members of the bar, courts and consumer representatives, submit written comments on any issue of fact, law, or policy that may assist in the evaluation required by section 103(c). We invite comments from all parties that may be affected by the removal of the utility cancellation notices exception from the ESIGN Act including, but not limited to, state agencies and organizations, national and state bar associations, consumer advocates, and utilities and administrative law practitioners. The comments will assist NTIA in evaluating the potential impact of the removal of this exception from ESIGN on consumers, utility companies, legal professionals, and state electronic transactions laws. The following questions are intended to provide guidance as to the specific subject areas to be examined as a part of the evaluation. Commenters are invited to discuss any relevant issue, regardless of whether it is identified below.

1. What methods, if any, are available to protect utility service customers if the utility cancellation notices exception is removed from the ESIGN Act?

2. Discuss state and municipal utility regulation and consumer protection

laws that require written notice to consumers for cancellation of telephone, water, gas, or electric utility services.

3. Discuss state and municipal utility regulations, laws, or ordinances that allow utilities to send electronic notices to consumers for cancellation or termination of telephone, water, gas or electric utility services.

4. How would the removal of the utility cancellation notices exception to ESIGN affect consumers? How would the removal of the exception affect the provision of notice by utility companies to their customers? Please discuss.

5. What effect would the removal of the exception have on the current municipal, state, and federal policies concerning notice of utility service cancellations?

6. If the ESIGN Act is amended to eliminate the utility cancellation notice exception, what other changes, if any, are required to maintain consumer protection laws? What changes would be necessary, if any, to maintain current state and Federal policies concerning the content and timing of utility cancellation notices?

7. What are the benefits for utility customers, and utility companies that may result from electronic notice of cancellation of utility services? For example, would electronic notice provide customers with additional time to correct conditions or circumstances that led to the cancellation?

8. List any unique issues surrounding the delivery, timing, authentication, privacy, of utility cancellation notices that can and should be resolved prior to removal of the exception from the Act.

9. State whether municipalities, states, or utility companies have developed electronic notification procedures for the transmission of utility service information.

10. Discuss current electronic methods that are used to provide information to consumers regarding utility services (e.g., conditions of service or rate information). In these instances, discuss the consumer protection mechanisms that are employed by utility companies to transmit service or rate information to customers. Also discuss the following:

- a. receipt verification procedures;
- b. updated regulations that reflect electronic signature technologies; and
- c. regulations that require the retention of paper copies of the notice.

Please provide copies of studies, reports, opinions, research or other empirical data referenced in the responses.

Dated: January 23, 2003.

**Kathy D. Smith,**

*Chief Counsel, National Telecommunications and Information Administration.*

[FR Doc. 03-1921 Filed 1-27-03; 8:45 am]

**BILLING CODE 3510-60-S**

**COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**

**Establishment of Import Limits for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in Belarus**

January 21, 2003.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the commissioner of customs establishing limits.

**EFFECTIVE DATE:** January 28, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the U.S. Customs Web site at <http://www.customs.gov>. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at <http://otexa.ita.doc.gov>.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Bilateral Textile Memorandum of Understanding dated January 10, 2003 between the Governments of the United States and Belarus establishes limits for the period January 1, 2003 through December 31, 2003. This notice cancels and supercedes the notice published on December 30, 2002 (67 FR 79571).

These limits may be revised if Belarus becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Belarus.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see

Federal Register notice 68 FR 1599, published on January 13, 2003).

**James C. Leonard III,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

January 21, 2003.

Commissioner of Customs,  
*Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; this directive cancels and supercedes the directive issued to you on December 23, 2002. You are directed to prohibit, effective on January 28, 2003, entry into the United States for consumption and withdrawal from warehouse for consumption of textiles and textile products in the following categories, produced or manufactured in Belarus and exported during the twelve-month period beginning on January 1, 2003 and extending through December 31, 2003:

Category	Twelve-month restraint limit
622 .....	9,100,000 square meters of which not more than 1,500,000 square meters shall be in Category 622-L <sup>1</sup> .
435 .....	66,000 dozen.
448 .....	34,000 dozen.

<sup>1</sup>Category 622-L: only HTS numbers 7019.51.9010, 7019.52.4010, 7019.52.9010, 7019.59.4010, and 7019.59.9010.

Products in Categories 622 and 622-L exported during 2002 shall be charged to the applicable category limit and sublimit for that year (see directive dated October 19, 2001) to the extent of any unfilled balance.

In the event the limit and sublimit established for that period have been exhausted by previous entries, such products shall be charged to the limit and sublimit set forth in this directive.

The limits set forth above are subject to adjustment pursuant to the current bilateral agreement between the Governments of the United States and Belarus.

This limits may be revised if Belarus becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Belarus.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,  
James C. Leonard III,