

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.

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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, 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.¹

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

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

¹ 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.