

of the proceeding. See, e.g., section 291(a)(2) of the URAA (the URAA amendments shall "take effect" on the date the WTO Agreements enter into force and "shall apply with respect to" reviews initiated pursuant to a request filed after such date); 19 CFR 351.701 (regulations implementing the changes made by the URAA "apply to all administrative reviews initiated on the basis of requests made after June 18, 1997" (the "effective date" provided in the notice of final rule published in the **Federal Register** on May 19, 1997)).

11. *Applicability of Administrative Procedures Act To Revised Arm's-Length Test*

One commenter contended that the change to the arm's-length test is tantamount to creating a rule as set forth in 5 U.S.C. 553 of the Administrative Procedures Act (APA). More specifically, citing *Carlisle Tire & Rubber Co. v. United States*, 10 C.I.T. 301, 305-06 (1986) (*Carlisle*), the commenter suggests that the Department's notice and comment procedures should comply with those set forth under APA. In this commenter's view, the 15 day notice and comment period provided by the Department falls short of the 60 day period required under the APA.

Department's Position: As discussed above, the revised arm's-length methodology has been developed taking into account the finding in the AB Report that the application of the 99.5 percent arm's-length test in the underlying investigation was inconsistent with the obligations of the United States under Article 2.1 of the AD Agreement. As a result, the revised arm's-length test represents a methodology consistent with section 2.1 of the AD Agreement in accordance with the AB Report. Unlike the methodologies contested in *Carlisle*, our arm's-length methodology does not create an inflexible rule. In short, the Department's arm's-length methodology is not subject to the APA because, unlike the methodology underlying *Carlisle*, it only interprets the law.

The Department also notes that section 123(g) does not provide for application of the APA within the context of the remediation of the Department's practice. Section 123(g) only requires, in relevant part, that the Department provide the public with the proposed change, an explanation of how that change would implement the panel or Appellate Body report, and an opportunity for comment. Consequently, under a plain language reading of section 123(g), the Department's announced change in

practice would not be subject to the notice and comment procedures of the APA.

Timetable

This methodology will be used in implementing the Japan Hot-Rolled findings pursuant to section 129 of the URAA. In accordance with section 129(c)(1) of the URAA, the section 129 determination in Japan Hot-Rolled will establish new cash deposit rates for all producers for whom the investigation rates are still applicable and will apply with respect to unliquidated entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after the date on which the United States Trade Representative directs the Department to implement that determination. With respect to other proceedings and other segments of the Japan hot-rolled proceeding, the new methodology will be applied in all investigations and reviews initiated on or after November 23, 2002.⁴⁷

Dated: November 8, 2002.

Faryar Shirzad.

Assistant Secretary for Import Administration.

[FR Doc. 02-29065 Filed 11-14-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 021028257-2257-01]

RIN 0648-ZB32

NOAA Ocean Exploration Initiative, Fiscal Year 2003

AGENCY: Office of Ocean Exploration, National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: NOAA's Office of Ocean Exploration (OE) is seeking pre-proposals and full proposals for grants and cooperative agreements and other financial collaborations in support of OE's mission to expand our knowledge base of the ocean's physical, chemical

⁴⁷ This is a slight modification of the Timetable as set forth in the Proposed Modification. Previously, the Timetable anticipated that the implementation of this practice would go into effect with respect to investigations initiated on the basis of requests received after the publication date of this notice, and for reviews initiated on the basis of requests received in the month following publication of this notice. Upon further consideration, we have determined that it is appropriate to employ this methodology in all investigations and reviews initiated on or after November 23, 2002.

and biological characteristics, processes, and resources and to learn more about our maritime cultural heritage by means of experiments and expeditions to unknown, or poorly known oceanic and Great Lakes regions. With an emphasis on stimulating integrated, interdisciplinary efforts and institutional collaborations, the goal is to foster a program in ocean exploration in which discovery and the spirit of challenge are the cornerstones.

DATES: Pre-proposals are required and must be received in the NOAA Office of Ocean Exploration by close of business (U.S. Eastern Time Zone), December 16, 2002, and full proposals by close of business, January 29, 2003. In the event these dates fall on a weekend or holiday, the application deadline shall be the first working day after the date specified. E-mail submissions of the pre-proposals and proposals are strongly encouraged. Facsimile pre-proposals and/or facsimile proposals will not be accepted.

ADDRESSES: Send proposals to NOAA, Office of Ocean Exploration, ATTN: OE Science Program Coordinator, Bldg. SSMC3, Rm. 10221, 1315 East West Highway, Silver Spring, MD 20910 or via e-mail to: oar.oe.submissions@noaa.gov.

FOR FURTHER INFORMATION CONTACT:

Margot Bohan, OE Science Program Coordinator, or Randi Neff, OE Program Grants Coordinator, NOAA Office of Ocean Exploration, 301-713-9444, facsimile 301-713-4252 or submit inquiries via e-mail to the Frequently Asked Questions address: oar.oe.FAQ@noaa.gov. A copy of this notice, as well as ancillary information, will be posted on the Ocean Explorer Website which can be found at: <http://www.explore.noaa.gov>.

SUPPLEMENTARY INFORMATION:

I. Program Authority

Authority: 33 U.S.C. 883d. *Catalog of Federal Domestic Assistance Number:* 11.460.

II. Program Description

A. Background

In June 2000, the Secretary of Commerce was given a Presidential directive to convene a panel of leading ocean explorers, scientists, and educators to develop a national strategy for exploring the oceans. Upon completion of its undertaking, the Presidential Panel presented its recommendations in the report entitled, *Discovering Earth's Final Frontier: A U.S. Strategy for Ocean Exploration (Presidential Panel Report)* (<http://>

oceanpanel.nos.noaa.gov). Among them was a recommendation to designate a lead Federal agency to guide a national program in ocean exploration. NOAA was selected and established the Office of Ocean Exploration in 2001.

Through implementation of the vision of the Presidential Panel, OE seeks to challenge our Nation's scientists to explore the frontiers of ocean science and technology for the purpose of discovery and the advancement of knowledge of the oceans and their resources.

B. Program Mission

The mission of OE is to expand our knowledge base of the ocean's physical, chemical and biological characteristics, processes and resources and to learn more about our maritime cultural heritage by means of experiments and expeditions to unknown, or poorly known oceanic and Great Lakes regions.

III. Program Notice

A. Notice Objectives

The purpose of this announcement is to invite the submission of pre-proposals and full proposals for grants and cooperative agreements and other financial collaborations whose objectives are to explore the ocean and map its resources, to gain new insights about its physical and chemical processes and its living and non-living resources, including maritime cultural heritage, and to contribute to the advancement and utilization of ocean technology.

B. General Guidance

Themes. In 2002, OE conducted eight U.S. regional workshops to engage a broad and diverse representation of ocean scientists, explorers, and educators from public, private and commercial organizations to help define and prioritize ocean exploration objectives for the coming years. A number of exploration themes, which refine and complement those of the Presidential Panel Report, emerged as a result. Persons submitting proposals may elect to address these preferred themes, which are listed below (in no order of priority).

- Mapping ocean characteristics and bathymetry;
- Marine life inventories: vertebrate, invertebrate, macro-organisms and micro-organisms
- Marine archaeology characterization of benthic and pelagic habitats and ecosystems
- Locating and mapping corals (including deep corals)
- New ocean resources

- Passive ocean acoustics
- Technology: innovative applications and leveraged development

Geographic Areas of Interest. OE is especially interested in, but will not limit its consideration to, proposals for exploration within the U.S. EEZ and other areas of U.S. jurisdiction, including the Great Lakes. Additional areas of geographic interest include the Polar Regions and the following regions where OE anticipates being able to provide the noted resources:

- Gulf of Mexico/Caribbean/Southwest North Atlantic [Class I ship w/ sub or ROV, 30 days]
- Gulf of Mexico/U.S. East Coast/Caribbean [Class II ship with sub or ROV, 40 days]
- U.S. East Coast, [Class I ship with ROV, 60 days]
- U.S. East Coast, [Class III ship, 30 days]
- Northwestern Hawaiian Islands [Class II ship with sub or ROV, 60 days]

Investigators with non-OE-funded shiptime, projects, or other resources may wish to propose supplementing them by the addition of tasks or objectives that are consistent with (and are, therefore, eligible for funding by) the OE program.

Establishment and support of facilities and infrastructure are not OE priorities. Proposals focused solely on ocean-climate issues are also not an OE priority.

C. Proposal Requirements

Outreach & Education. A key recommendation of the Presidential Panel Report is "reaching out in new ways to stakeholders, to improve to the literacy of learners of all ages with respect to ocean issues."

All funded Principal Investigators (PIs) and collaborators will be required to cooperate with OE in facilitating education and outreach activities. This may entail development of lesson plans, professional development for teachers, accommodation of a teacher/educator-at-sea, and at-sea media participation.

Data Management. In accepting full or partial OE sponsorship, each PI is obligated to meet certain data management requirements including:

1. PIs will provide metadata, e.g., number and type of data, and description of the data collected immediately upon completion of a project cruise. Other data or data products may also be required at the discretion of the OE Director.
2. PIs will provide OE and the public access to the acquired data sets collected as soon as practical and, in no case, later than one year following the

data of collection, unless an extension is specially granted by OE.

Proposals should include a description and justification of data funding needs and explain how data will be made accessible or available to the public.

3. NOAA's ocean Explorer Web site (<http://oceanexplorer.noaa.gov>) is the principal vehicle for chronicling and documenting all missions supported by OE. PIs and mission participants will be required to provide material (i.e., throughout the mission) for this site such as cruise tracks, preliminary bathymetry, characterization of data collected, photographic or other images from the mission, and participants interviews, essays, or written materials. Funded PI's will be required to cooperate with the NOAA Ocean Explorer website team which may include accommodation of a NOAA web team member. (See Ancillary Information at: <http://explore.noaa.gov>).

IV. Funding Availability

FY2003 funding for this program has not yet been appropriated. Proposals are encouraged for collaborations and explorations ranging from the tens of thousands of dollars to funds appropriate for up to two months of expeditionary exploration work. Multi-year proposals will be accepted, although the principal focus in the first several years of the OE program will be on one-year projects and expeditions. Out-year funding will be contingent upon factors including successful accomplishment of prior-year objectives as well as availability of program funding and other relevant resources.

The funding instrument of extramural awards may be a grant or cooperative agreement. A cooperative agreement is appropriate when substantial NOAA involvement is anticipated. This means that the recipient can expect substantial agency collaboration, participation, or intervention in project performance. Substantial involvement exists when: responsibility for the management, control, direction or performance of the project is shared by the assisting agency and the recipient; or the assisting agency has the right to intervene (including interruption or modification) in the conduct or performance of project activities. NOAA will make decisions regarding the use of cooperative agreements on a case-by-case basis. NOAA encourages the participation of NOAA scientists in collaborative efforts. Applications determined to be for the acquisition of property or services for the direct benefit or use of the U.S. government will be evaluated for funding

under agency contract procurements outside of this announcement.

There is no guarantee that sufficient funds will be available to make awards for all qualified projects. Publication of this Notice does not obligate NOAA to award any specific project or to obligate all or any part of the available funds.

V. Eligibility

Eligible applicants are institutions of higher education, other nonprofits, commercial organizations, international organizations, state, local and Indian tribal governments. Applications from non-Federal and Federal applicants will be competed against each other. (**Note:** NOAA/OE spent approximately 70 percent of Fiscal Year 2002 funds outside the agency.) Proposals selected for funding from non-Federal applicants will be funded through a project grant or cooperative agreement under the terms of this notice. Proposals selected for funding from NOAA scientists shall be affected by an intra-agency fund transfer. Proposals selected for funding from a non-NOAA Federal agency will be funded through an inter-agency transfer. **Please Note:** Before non-NOAA Federal applicants may be funded, they must demonstrate that they have legal authority to receive funds from another Federal agency in excess of their appropriation. Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

VI. Project Funding Considerations

Ideally, proposals should be interdisciplinary, involve legitimate collaborations with other institutions or agencies, and have contributory funding. An interdisciplinary approach will likely to result in a greater breadth of science product. Collaborations will enhance the proposal through the contribution of scientific or technical expertise, funds, personal, shiptime, and/or equipment. Although cost sharing is not required, it is encouraged. Contributory funding will leverage OE funds.

The geographic area of interest of a proposal will also be a project funding consideration.

Communication of research through outreach and education is a critical element of the programs, projects and activities that OE supports. Proposals should reflect a willingness to facilitate and participate in such activities.

OE may share proposals with other funding entities, such as the agencies of the National Ocean Partnership Program, and other NOAA funding

sources, to ensure the most appropriate funding (see Section VIII.B.).

VII. Guidelines for Submission

There will be a two-stage competition with pre-proposals utilized for an initial selection process. Full proposals will be solicited from investigators who submit successful pre-proposals. An approved pre-proposal is a requisite for submission of a full proposal. All pre-proposals and proposals must conform with the requirements published in this notice. Pre-proposals will be judged in terms of their consistency with the Presidential Panel Report and the Ocean Exploration program's themes (see Section III.B.). The cost of the proposed activities relative to available program funds will also be taken into consideration.

A. Preliminary Proposals

A pre-proposal should include a summary of the proposed research, project priorities, a statement of objectives, and a description of how the proposed project is in keeping with the OE mission described in this notice. The area of proposed operations must be clearly defined (e.g., including latitude, longitude, and depth). Required platforms or other critical assets should be identified. The pre-proposal should make clear any time or other operational constraints, especially with regard to field operations. Any auxiliary funding sources for the proposed project should be identified. Pre-proposals should also identify all collaborators and include a summary budget. Pre-proposals may not exceed two typewritten single-sided pages, using 10-point font or larger. All pre-proposals must also include a completed pre-proposal cover page (available electronically at <http://explore.noaa.gov>) (see **FOR FURTHER INFORMATION CONTACT** to request a hard copy version). Electronic submission of pre-proposals to oar.oe.submissions@noaa.gov is strongly encouraged. See **ADDRESSES** to submit a hard copy submission.

B. Proposals

All proposals must include the following, packaged in the order listed here: (a) A completed proposal cover page (available electronically at <http://explore.noaa.gov>); (b) a maximum half-page executive summary; (c) a maximum 15-page description of the entire project (including work plan, schedule, and collaborations); (d) a summary of relevant current funding support; (e) brief resumes for each investigator, including recent relevant publication references, (f) a detailed budget (including any ship and

equipment costs) and budget narrative (including justification for non-standard items) and (g) all government forms required for submission (see Section VII.C.). All pages should be single-sided, single—or double-spaced, typewritten margin in a minimum 10-point font on a 8½" x 11" page. Tables and visual materials, including charts, graphs, maps, photographs, and other pictorial presentations are to be included in the 15-page limit. The signature page, executive summary, references/literature cited, budgets and budget notes, current and pending support sections and resumes need not be counted against the 15-page limit. All information needed for review of the proposal should be included in the main text, e.g., not submitted as appendices.

The proposal must clearly explain each participant's efforts and their respective requests for OE funds, as well as any cost-sharing. Separate budgets within the single proposal must be provided if more than one funding action is anticipated (e.g., if funds are to be allocated to more than one institution or agency).

Forms must be submitted in triplicate, each with original signatures, along with any electronic submissions, by the closing time identified in this announcement. All required forms (see Section VII.C.) must be mailed to OE. With the exception of these forms, electronic submission of proposals to oar.oe.submissions@noaa.gov is strongly encouraged and will have a positive influence on the processing time for such proposals. Investigators who elect to submit hard copies of their proposal are required to submit 3 copies but are encouraged to submit 15 copies, particularly if they wish reviewers to receive included color graphics, glossy photographs, or other unusual materials. For further information, see *Announcement of Opportunity: Application Kit* at <http://www.explore.noaa.gov/> or see **ADDRESSES** and/or **FOR FURTHER INFORMATION**.

Proposals and required forms received after the deadline, or proposals that deviate from the format described in this Notice will not be accepted.

C. Forms

Standard Forms 424, Application for Federal Assistance, 424A, Budget Information-Non-Construction Programs, 424B, Assurances-Non-Construction Programs, SF-LLL, Disclosure of Lobbying Activities (Rev. 7-97) (if applicable); DOC forms, CD-346, Applicant for Funding Assistance, CD-511, Certifications Regarding

Debarment, Suspension and Other Responsibility Matters: Drug-Free Workplace Requirements and Lobbying, CD-512, Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying shall be used in applying for financial assistance, and, if applicable, please submit your most current negotiated indirect cost rate agreement. All necessary forms may be obtained via the OE Internet site (see: OE Application Kit) at <http://explore.noaa.gov>. For hard copies, see **ADDRESSES** and/or **FOR FURTHER INFORMATION**.

VIII. Pre-Proposal and Proposal Selection Process

A. Pre-Proposals

The OE Director will make the decisions regarding pre-proposal acceptance or rejection. These decisions will be based on the following factors: (1) Is the proposal consistent with the Presidential Panel Report and OE mission?, (2) Does it touch on the OE themes and project funding considerations?, (3) Are the costs of the proposed activities relative to available program funds?

B. Proposals

Proposals will be evaluated and rated individually by (a) ad hoc independent peer review and/or by (b) independent peer panel review using the following equally weighted criteria. In general, the pool of reviewers will be composed of scientists, engineers, social scientists, economists, outreach specialists, and resource managers as appropriate to the scope of proposals received in response to this announcement.

Scientific and Technical merit: The scientific and/or technical value of the work proposed, its probability of success, and the applicant's scientific and/or technical capabilities to undertake the proposed work.

Program Relevance: The degree to which the proposal addresses and supports Ocean Exploration's mission and notice objectives (see Section II and Section III.A.).

Usability of results: The anticipated scientific and/or technical impact of project results on the advancement of knowledge within the field(s) of endeavor.

All proposals submitted for funding via a grant or cooperative agreement (or intra/interagency transfer) will be rated by the independent peer reviewers according to an adjectival scale ranging in order of decreasing merit, as follows:

Excellent: Comprehensive, thorough and of exceptional merit, one or more

major strengths, no major weaknesses, and any minor weaknesses easily correctable.

Very Good: Competent, one or more major strengths, strengths outweigh weaknesses, and major weaknesses correctable.

Good: Reasonable, may be strengths and/or weaknesses, weaknesses do not significantly detract from the proposal's viability, any major weaknesses are correctable.

Fair: One or more major weaknesses, weaknesses outweigh strengths, major weaknesses may possibly be corrected or minimized.

Poor: One or more major weaknesses which will be difficult to correct or may not be correctable.

Following the peer review, the OE Chief Scientist will compile the individual ratings and make recommendations for funding based on OE's mission, notice objectives and the project funding considerations.

The OE Director will have the final authority and responsibility for decisions regarding proposal selection. The Director shall have discretion in making final decisions and will consider: (1) Peer reviews; (2) the Chief Scientist's recommendations; (3) the avoidance of duplication with other projects funded by NOAA or other Federal Agencies or the proprietary of other funding sources; (4) the extent to which the proposal is in the best interest of OE's mission and the notice objectives (see Section II and III), (5) the extent to which it addresses funding considerations identified in this announcement (see Section VI), (6) the availability of program funding, and (7) the proposal's geographic location. High proposal peer review ratings may not result in funding for a given proposal. Investigators may be asked to modify objectives, work plans, or budgets prior to approval of the award. Subsequent administrative processing will be in accordance with current NOAA financial administrative procedures.

Other NOAA agencies and programs also have mission objectives which involve ocean research and technology development. Examples include the National Undersea Research Program, the National Sea Grant College Program, the Arctic Research Office, NOAA Fisheries and the National Ocean Service. OE anticipates and encourages collaborative proposals involving these agencies and programs. Investigators who wish to work with OE through any of these other entities should contact them directly. Prospective collaborative projects facilitated by these other programs will be subject to the OE's proposal review and decision-making

process. For additional details about these other programs, see: <http://oceanexplorer.noaa.gov>.

C. Disposition of Unsuccessful Applications

Those proposals that are not ultimately selected for OE funding will be destroyed.

IX. Federal Policies and Procedures Applicable to OE

A. Environmental Impact

Applicants whose proposed projects may have an environmental impact should furnish sufficient information to assist proposal reviewers in assessing the potential environmental consequences of supporting the project.

B. Permits and Authorizations

Proposers are responsible for obtaining relevant permits and authorizations required under the laws of the jurisdiction in which the work is to be performed and under U.S. law.

For further information about permits, authorizations or viewing marine mammals and other protected species in the wild please visit the following NOAA Fisheries Web site: http://www.nmfs.noaa.gov/prot_res/overview/permits.html and http://www.nmfs.noaa.gov/prot_res/MMWatch/MMViewing.html.

X. Other Requirements

The Department of Commerce Pre-award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** Notice (66 FR 49917) published on October 1, 2001, are applicable to this solicitation. Intergovernmental Review.

Applications under this program are subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

Classification

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act (5 U.S.C. 553(a)(2)) or any other law for this notice concerning grants, benefits, and contracts.

Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This action has been determined to be not significant for purposes of Executive Order 12866.

This notice contains collection-of-information requirements which are subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, SF-LLL, and CD-346 have been approved by OMB under the respective

control numbers 0348-0043, 0348-0044, 0348-0040, 0348-0046, and 0605-0001. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB control number.

Louisa Koch,

Acting Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 02-29120 Filed 11-14-02; 8:45 am]

BILLING CODE 3510-KD-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110502D]

Marine Mammals; File No. 774-1649-01

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Permit No. 774-1649-00 issued to the Southwest Fisheries Science Center, National Marine Fisheries Service, 8604 La Jolla Shores Drive, La Jolla, California 92038 (Principal Investigator: Rennie Holt, Ph.D.) has been amended.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)713-0376; and Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562)980-4001; fax (562)980-4018;

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Amy Sloan (301)713-2289.

SUPPLEMENTARY INFORMATION: On October 2, 2002, notice was published in the **Federal Register** (67 FR 61850) that an amendment of Permit No. 774-1649, issued November 14, 2001 (66 FR 58445), had been requested by the above-named organization. The requested amendment has been granted under authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The Amended Permit authorizes the Holder to capture, weigh, measure, tag and release southern elephant seal pups.

Dated: November 7, 2002.

Eugene T. Nitta,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 02-29085 Filed 11-14-02; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 010222048-2243-05]

The Housing Foreclosure, Repossession, and Default 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. 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 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 papers. 15 U.S.C. 7003(a),(b). 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 to provide information for this evaluation, specifically on the ESIGN exception for notices that communicate information regarding the primary residence of an individual concerning default, acceleration, repossession, foreclosure, eviction, and the right to cure (hereinafter referred to as "residential default, foreclosure, and

eviction notices"). See 15 U.S.C. 7003(b)(2)(B).

DATES: Written comments and papers are requested to be submitted on or before [sixty (60) days after publication in the **Federal Register**].

ADDRESSES: Written comments should be submitted to Josephine Scarlett, Senior Attorney, National Telecommunications and Information Administration, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Paper submissions should include a 3 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_default@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 Avenue, NW., 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. 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: probate and domestic law matters; state commercial law; consumer law covering utility services, residential property default, foreclosure, and eviction notices, and insurance benefits; product recall notices; and hazardous materials papers.