

which poses a substantial threat of a discharge of oil, into or upon the navigable waters of the United States or adjoining shorelines, is liable for natural resource damages from incidents that involve such actual or threatened discharges of oil. The measure of damages to natural resources is the cost of restoring, rehabilitating, replacing or acquiring the equivalent of the injured natural resources, compensation for the diminution in value of those natural resources pending restoration, and the reasonable costs of assessing such damages. All recoveries for the first two elements are to be spent implementing a restoration plan developed by the trustees. In this case, there is not an identified responsible party to pay damages. When there is not a responsible party, the Federal Oil Spill Liability Trust Fund is available to pay claims for the costs of assessing natural resource damages and for developing and implementing restoration plans.

The trustees quantified injury to sea turtles, fish and invertebrates, seabirds, and recreational beaches for inclusion in a claim for restoration costs. The trustees determined that their selected alternative to address injuries and losses of sea turtles is a combination of active primary restoration (to return sea turtle resources and services to baseline) and compensatory restoration (to compensate for interim losses pending recovery to baseline). The primary restoration consists of augmenting lighting ordinance enforcement activities that will return sea turtles to baseline by preventing mortality of turtle hatchlings due to disorientation. The selected compensatory restoration also augments lighting ordinance enforcement, which will provide additional turtle hatchlings to compensate for the interim turtle losses. The compensatory component of the enforcement project will be of sufficient scale to provide compensatory ecological services approximately equivalent to those that will be lost from the injured turtles pending recovery to baseline.

No primary restoration actions are necessary for the fish and invertebrate, and seabird injuries. However, the trustees have selected projects as compensation for an acute kill of fish, invertebrates, and seabirds. The trustees will create mangrove habitat in order to provide the fish and invertebrate biomass that was lost.

To replace the birds that were killed, the trustees will save birds from future injury. The trustees will install signs at a fishing pier that warn anglers from cutting their lines and that demonstrate how to free birds from fishing lines and

hooks, which will prevent entanglement and provide seabird rescue in the event of entanglement.

The impacted recreational beaches were returned to baseline conditions through incident response actions, however there was a period of lost use during the response phase. The selected compensatory restoration projects are to plant sea oats to build dunes, construct dune walkovers, provide handicapped carts, and provide shade areas that together will maintain beaches for future use, provide access to the beach, and improve the quality of the beach experience.

Dated: August 16, 2002.

**Jamison S. Hawkins,**

*Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.*

[FR Doc. 02-24223 Filed 9-23-02; 8:45 am]

**BILLING CODE 3510-JE-P**

## DEPARTMENT OF COMMERCE

### National Telecommunications and Information Administration

**Docket No. 010222048-2215-02**

#### Product Recall 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; certain provisions of state uniform commercial codes; utility service cancellations, real property foreclosure and defaults; insurance benefits cancellations; 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 product recall notices exception to the ESIGN Act. *See* 15 U.S.C. 7003(b)(2). NTIA will publish 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 November 25, 2002.

**ADDRESSES:** Written comments should be submitted to Josephine Scarlett, National Telecommunications and Information Administration, 14th Street and Constitution Ave., NW., 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\\_prodrec@ntia.doc.gov](mailto:esignstudy_prodrec@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., NW., Washington, DC 20230, telephone (202) 482-1816 or electronic mail: [jscarlett@ntia.doc.gov](mailto: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

<sup>1</sup> Comments submitted in response to *Federal Register* notices requesting comment on other exceptions to ESIGN will be considered as part of the same section 103 evaluation and not as a separate review of the Act.

provide 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, real property purchases, and insurance benefits; product recall notices; and hazardous materials documents.

The statutory language providing for an exception to section 101 of ESIGN for product recall 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—

\* \* \* \*

(D) recall of a product, or material failure of a product, that risks endangering health or safety. . .

\* \* \* \*

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.

**Recall Notices**

A recall is the voluntary or compulsory removal of a product, including food, from the stream of commerce because the product violates state or federal regulations regarding the product, or because the use of the product poses a risk to health or safety. Recall notices are typically issued by government agencies, and by manufacturers, retailers, and distributors of products and foods using a variety of media under the guidance and direction of federal and state regulatory and consumer protection agencies. The Department of Agriculture (USDA), Environmental Protection Agency (EPA), Food and Drug

Administration (FDA), National Highway Safety Transportation Administration (NHSTA), and U.S. Consumer Product Safety Commission (CPSC) have regulations and guidelines that companies follow to recall various manufactured products, foods, drugs, and cosmetics.<sup>2</sup> Numerous recall notices are issued by manufacturers each year under the guidance and instruction of federal and state agencies; the Consumer Product Safety Commission estimates that the CPSC oversees approximately 300 recalls yearly.

Current federal regulations and policies allow companies to use a variety of methods to transmit recall notices. Companies, manufacturers, distributors, retailers or recall firms may disseminate recall information to the consumer by, among other things, letter, signs and posters at points of purchase, press releases and public announcements, including video news releases and website notices. The method used to notify consumers and the extent of a recall varies in each case depending upon a variety of factors, including the severity of the risk to health, life, and safety associated with the use of the product and the level of product distribution. For example, recalls classified as Class I involve a reasonable probability that the use of the product is likely to cause serious, adverse health consequences or death. A manufacturer of a widely-distributed product that is subject to a Class I recall may be required to issue direct notice in the form of written letters, to issue press releases, and point of purchase posters in order to contact consumers, retail and wholesale distributors, and users of the product. See USDA, FSIS Directive 8080.1, Rev. 3, sections VI(D) and VI(E); CPSC Recall Handbook, and CPSC Fax-on-Demand Document no. 8002, at 11–12, 15. For a product that presents a less serious risk of injury, for example, a product where the risk of serious injury or illness is not likely, but is possible, a lesser degree of notice may be required. An agency may request a

<sup>2</sup> See e.g., 9 CFR 417.3, 9 CFR part III, and Food Safety Inspection Service (FSIS) Directive 8080.1, Rev. 3, available at <http://www.fsis.usda.gov/FOIA/dir/8080.htm> (USDA recall guidelines); 42 U.S.C. 7541(c)(1), and 40 CFR 85.1802 through 85.1805, 92.703, 92.404, 94.404 and 94.703 (EPA recall authority and procedures); 21 CFR 1115.2(c), 1115.20, and CPSC Recall Guidelines, available at <http://www.cpsc.gov/businfo/8002> (CPSC recall authority and recall guidelines); and 49 U.S.C. 30119, 49 CFR 573.6, 577.5, 577.6, 579, NHTSA Motor Vehicle Defects and Recall Campaigns, available at <http://www.nhtsa.dot.gov/hotline/recallprocess.html> and NHTS Safety Recall Compendium, Third Release, June 2001, available at [http://www.nhtsa.dot.gov/cars/problems/recalls/recall\\_links.cfm](http://www.nhtsa.dot.gov/cars/problems/recalls/recall_links.cfm) (NHSTA recall authority and guidelines).

manufacturer of a product that presents a lesser degree of hazard but a hazard, nonetheless, to join in a press release, provide point of purchase posters, post information on a company world wide web site and to issue a notice to distributors, dealers and sellers of the product. See e.g., CPSC Recall Handbook and CPSC Fax-on-Demand Document no. 8002, at 11–12, 15; U.S. Department of Transportation, NHTS Safety Recall Compendium, at 10, 12. In cases involving foods or products that pose extreme health or safety risks to the public, federal and state agencies, as well as companies, issue press releases to inform the public of the dangers associated with the use of the food or product that is the subject of the recall. See e.g., USDA, FSIS Directive 8080.1, Rev. 3, section IX, “Public Notification” at 3. More recently, some federal agencies have instituted procedures that provide for recalling companies and firms to send electronic mail notices to consumers and postings on the company’s world wide website announcing the recall of a product. See e.g., CPSC Recall Handbook at 15.

**The ESIGN Section 103 Evaluation**

The ESIGN Act directs the Assistant Secretary of Communications and Information to conduct an evaluation of the exceptions set out in section 103 of the Act to determine whether the product recall notices exception continues to be necessary for the protection of consumers, and to submit a report to Congress on the results of the evaluation no later than June 30, 2003. The Assistant Secretary for Communications and Information is the chief administrator of NTIA. As the President’s principal advisor on telecommunications policies pertaining to the Nation’s economic and technological advancement, NTIA is the executive branch agency responsible for developing and articulating domestic and international telecommunications policy.

The ESIGN section 103 evaluation of the product recall notices exception is intended to evaluate the current status of federal and state regulations and practices that direct or allow companies to issue product recall notices and the manner in which the notices are provided to consumers, in preparation for a report to Congress on whether the exception of product recall notices remains necessary to protect consumers. This evaluation is not a review or analysis of federal and state regulations and rules relating to product recall notices for the purpose of recommending changes to those regulations but to advise Congress of the

current state of law, practice, and procedure regarding this issue.<sup>3</sup> Comments filed in response to this Notice should not be considered to have a connection with or impact on specific ongoing federal and state procedures or rulemaking proceedings concerning product recall notices.

#### Invitation to Comment

NTIA requests that all interested parties submit written comment on any issue of fact, law, or policy that may assist in the evaluation required by section 103(c). We invite comment from parties that may be affected by the elimination of the product recall notices exception, including consumer advocacy groups and organizations, federal agencies, and companies and industry associations. The comments submitted will assist NTIA in evaluating the narrower issues associated with consumer issues and the substantive law related to product recalls. The following issues are intended to provide guidance as to the specific 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. Describe federal and state regulations and rules that prescribe procedures for companies, distributors, retailers, and third party recall companies to follow when recalling a product.

2. Discuss whether federal and state regulations or laws that prescribe content, format, and timing of notices allow for electronic formats, including facsimile, electronic mail, and web site postings.

3. Discuss what effect, if any, the removal of the product recall notices exception would have on the ability of federal and state agencies to perform their mission.

4. What effect, if any, would the removal of the product recall notices exception have on companies and consumers?

5. Describe any issues encountered by companies that currently provide recall notices by electronic means. Discuss the methods companies use to transmit recall information to consumers and state whether there is a receipt verification process that has proven to be reliable.

6. Discuss issues, if any, that consumers have regarding receiving notice of product recalls through electronic means, including but not

limited to, receipt and delivery, technological compatibility, privacy, and security.

7. State whether the consumer protections of ESIGN section 101(c) would be sufficient to protect consumers if the product recall notices exception is eliminated.

8. Discuss any benefits for consumers, companies or both that may result if product recall notices are sent by electronic means.

9. Discuss any other issues (such as state privacy or consumer protection laws) that may be affected if product recall notices are included under the requirements of section 101 of the ESIGN Act.

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

Dated: September 19, 2002.

**Kathy D. Smith,**

*Chief Counsel, National Telecommunications and Information Administration.*

[FR Doc. 02-24209 Filed 9-23-02; 8:45 am]

**BILLING CODE 3510-60-S**

#### COMMODITY FUTURES TRADING COMMISSION

##### Membership of the Commission's Performance Review Board

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Membership change of Performance Review Board.

**SUMMARY:** In accordance with the Office of Personnel Management guidance under the Civil Service Reform Act of 1978, notice is given that the following employees will serve as members of the Commission's Performance Review Board.

Members: Madge A. Bolinger, Acting Executive Director, Chairman; Andrea M. Corcoran, Director, Office of International Affairs; David R. Merrill, Deputy General Counsel, Office of General Counsel; Gregory G. Mocek, Director, Division of Enforcement; and Patrick J. McCarty, General Counsel, Office of General Counsel.

**DATES:** This action will be effective on September 18, 2002.

**ADDRESSES:** Commodity Futures Trading Commission, Office of Human Resources, Three Lafayette Centre, 1155 21st Street, NW., Suite 4100, Washington, DC 20581.

**FOR FURTHER INFORMATION CONTACT:** Marsha E. Scialdo, Director, Office of Human Resources, Commodity Futures Trading Commission, Three Lafayette

Centre, 1155 21st Street, NW., suite 4100, Washington, DC 20581, (202) 418-5003.

**SUPPLEMENTARY INFORMATION:** This action which changes the membership of the Board supersedes the previously published **Federal Register** Notice, August 31, 2001.

Issued in Washington, DC on September 18, 2002.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 02-24226 Filed 9-23-02; 8:45 am]

**BILLING CODE 6351-01-M**

#### DEPARTMENT OF DEFENSE

##### Office of the Secretary

##### Defense Science Board

**AGENCY:** Department of Defense.

**ACTION:** Notice of advisory committee meeting.

**SUMMARY:** The Defense Science Board Task Force on Unmanned Aerial Vehicles (UAV) and Uninhabited Combat Aerial Vehicles (UCAV) will meet in closed session on October 7, 2002; October 29-30, 2002; and December 3, 2002, at Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA. The Task Force will review UAV/UCAV systems with special emphasis on affordability and increasing costs, interoperability disconnects, communications architectures to include bandwidth and redundancy, accident rates, operational control in both FAA airspace and military restricted airspace, survivability, military utility analysis, and management approaches.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will identify principal impediments to full and rapid exploitation of the joint warfighting potential of UAW and UCAV systems and, further, recommend how these constraints might be mitigated or removed.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

<sup>3</sup> The NTIA Request for Comment and the resulting evaluation have no legal effect on existing CPSC, EPA, FDA, NHTSA or USDA regulations and rules, or pending proceedings affecting recalls.