

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Parts 742 and 774

[Docket No. 080721866–8871–01]

RIN 0694–AE42

#### Revisions to the Commerce Control List To Update and Clarify Crime Control License Requirements

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would update and clarify export and reexport license requirements on striking weapons, restraint devices, shotguns and parts, optical sighting devices, and electric shock devices. It would also add equipment designed for executions to the Commerce Control List. This proposed rule would make no changes to the longstanding policy of denial of applications to export or reexport specially designed implements of torture. The proposed rule would provide additional illustrative examples of such items and would adopt a definition of torture used in a U.S. statute that implements the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. BIS is publishing this rule as part of an ongoing review of crime control license requirements and policy.

**DATES:** Comments concerning this rule must be received by BIS no later than September 25, 2009.

**ADDRESSES:** Comments on this rule may be submitted to the Federal eRulemaking Portal at <http://www.regulations.gov> (follow the instructions for submitting comments), by e-mail directly to BIS at [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov) (refer to regulatory identification number 0694–AE42 in the subject line), or on paper to Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, Room H2705, U.S.

Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Refer to Regulatory Identification Number (RIN) 0694–AE42 in all comments.

**FOR FURTHER INFORMATION CONTACT:**

Chantal Lakatos, Office of Non-proliferation and Treaty Compliance, Bureau of Industry and Security, telephone: 202–482–1739; fax: 202–482–4145; e-mail: [clakatos@bis.doc.gov](mailto:clakatos@bis.doc.gov).

**SUPPLEMENTARY INFORMATION:**

#### Background

The Export Administration Regulations (15 CFR parts 730–774) impose license requirements for certain exports from the United States and reexports from other countries for, among other reasons, “crime control.” The crime control license requirements are intended for the “support of U.S. foreign policy to promote human rights throughout the world” (15 CFR 742.7(a)). This rule is part of an effort by BIS to review and, where appropriate, revise the crime control license requirements in the Export Administration Regulations. In connection with this effort, BIS published a notice of inquiry seeking public comments on whether the scope of items and destinations that are subject to crime control license requirements should be changed (73 FR 14769, March 19, 2008). After reviewing the public comments on that notice and conducting its own policy deliberations, BIS plans to proceed with this review in stages.

In the first stage, BIS is publishing this proposed rule, which addresses relatively simple extensions, modifications or removals of items currently on the Commerce Control List or additions to that list of items that have a clearly identified crime control or law enforcement nexus.

In one or more subsequent stages, BIS intends to address more complex Commerce Control List matters such as whether, and, if so, the extent to which biometric measuring devices, integrated data systems, simulators, and communications equipment should be listed on the Commerce Control List; the degree to which software and technology related to commodities on the Commerce Control List should be listed and how such software and technology should be described; and general policy issues such as whether

the range of destinations to which crime control license requirements apply should be modified.

#### Summary of the Changes Proposed

*Revisions to § 742.7—Crime control.* This proposed rule would change the section heading to read “Crime control and detection” to reflect the contents of the section. It also would revise paragraph (a) to set forth a license requirement to all destinations for a proposed new ECCN 0A981 that would apply to equipment designed for the execution of human beings. Finally, this rule would revise paragraph (d) to state that in maintaining these controls, the United States considers international norms and the practices of other countries that control exports to promote the observance of human rights; however, the controls are not based on the decisions of any multilateral export control regime and may differ from controls imposed by other countries. This proposed rule would remove language from paragraph (d) that could be read as erroneously implying that the United States is the only country that imposes export controls on crime control and detection items.

*Revisions to § 742.11—Specially designed implements of torture.* This proposed rule would revise the heading to match the revised language that this rule applies to ECCN 0A983, *i.e.* “Specially designed implements of torture, including thumbscrews, thumbcuffs, handcuffs, spiked batons, shock sleeves and parts and accessories, *n.e.s.*” This proposed rule also would revise paragraph (d) to state that in maintaining these controls, the United States considers international norms and the practices of other countries that control exports to promote the observance of human rights; however, the controls are not based on the decisions of any multilateral export control regime and may differ from controls imposed by other countries. This proposed rule would remove language from paragraph (d) that could be read as erroneously implying that the United States is the only country that imposes export controls on specially designed implements of torture. This proposed rule would make no changes to the policy of denial of applications to export items subject to § 742.11 or to the prohibition (stated in § 740.2(a)(10) of

the EAR) on use of license exceptions to export commodities subject to § 742.11 of the EAR.

*Revisions to ECCN 0A978—Saps.* The items covered by this ECCN would be expanded from “saps” to “law enforcement striking weapons.” Saps, police batons, side handle batons, tonfas, sjamboks and whips would be listed as examples of law enforcement striking weapons. BIS believes that this change would provide consistent license requirements for several items that have substantially similar crime control functions.

*Creation of ECCN 0A981—Equipment for the Execution of Human Beings.* This rule would create a new ECCN 0A981 that would apply to equipment designed for the execution of human beings. Such equipment would require a license to all destinations. BIS is proposing adding this ECCN because equipment designed for the execution of human beings has a clear nexus to crime control and an obvious potential use in repressing human rights.

*Revisions to ECCN 0A982—Restraint Devices.* Several changes would be made to this ECCN to (a) make clear that it applies to law enforcement restraint devices, rather than safety or medical equipment, (b) update the illustrative list of commodities to which this ECCN applies, and (c) cross reference other ECCNs that apply to similar devices. These changes are intended to focus the ECCN on items of crime control significance and to reduce the possibility of misinterpretations.

- The rule would add the phrase “Law enforcement” to the heading.
- The rule would add “multipoint restraint devices including restraint chairs” to the illustrative list of restraint devices because use of these devices has increased in recent years and because they have potential for use in human rights abuse.
- The rule would also revise the related controls paragraph of this ECCN to note (a) that finger cuffs and shock sleeves are classified under ECCN 0A983—Specially designed implements of torture, (b) that law enforcement restraint devices that administer an electric shock are controlled under ECCN 0A985, and (c) that electronic devices that monitor and report a person’s location to enforce restrictions on movement for law enforcement or penal reasons are controlled under ECCN 3A981.

- This rule would add a note stating that this ECCN does not apply to medical devices that are equipped to restrain patient movement during medical procedures, devices that confine memory-impaired patients to

appropriate medical facilities, or safety equipment such as safety belts or child automobile safety seats.

BIS believes that the proposed revised language would clarify the scope of ECCN 0A982 and is not a substantive change.

*Revisions to ECCN 0A983—Specially Designed Implements of Torture.* This rule would make no changes to the Export Administration Regulations’ stated policies of denial of license applications for the export or reexport of specially designed implements of torture and prohibition of use of any license exception to export or reexport specially designed implements of torture.

The heading of ECCN 0A983 would be revised to add the word “including” immediately following the phrase “specially designed implements of torture” to make clear that the items listed are examples of specially designed implements of torture rather than an exclusive list of such implements. The heading would also be revised to add handcuffs, spiked batons and shock sleeves to the ECCN as additional examples of specially designed implements of torture. A new note would state that “torture” in this ECCN has the same meaning as set forth in 18 U.S.C. 2340(1), which is the definition employed by the United States criminal statute that implements the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. BIS believes that these changes would more clearly distinguish specially designed implements of torture from crime control and detection items.

*Revisions to ECCN 0A984—Shotguns.* This rule would remove the phrase “parts n.e.s.” and add the following specific parts for the shotguns controlled by this ECCN: barrels of 18 inches (45.72 cm) or longer but not longer than 24 inches (60.96 cm), receivers, breech mechanisms, complete trigger mechanisms, and magazines or magazine extension tubes. The parts are subject to CC column 1 license requirements. BIS believes that the purposes of the control can be met by retaining the license requirement on the shotguns themselves and on the critical parts set forth in this rule. BIS believes that continuing to require licenses for other parts would pose a burden on legitimate trade in shotgun repair parts that is not needed to achieve the purpose of these controls or of the controls related to the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials.

*Revisions to ECCN 0A985—Discharge Type Arms.* ECCN 0A985 applies to discharge type arms and to some electroshock devices that are not discharge type arms. To provide greater clarity and to include a representative description of devices currently available, this proposed rule would add the phrase “devices to administer electric shock” to the heading and would add stun cuffs and shock shields to the illustrative list of items classified under this ECCN. This rule would also add references to the “Related Controls” paragraph informing readers that shock sleeves are controlled by ECCN 0A983 and that electronic devices that monitor and report a person’s location to enforce restrictions on movement for law enforcement or penal reasons are controlled under ECCN 3A981.

*Revisions to ECCN 0A987—Optical Sighting Devices for Firearms.* This rule would replace the general description in the heading of ECCN 0A987 with a list of items controlled. With this change, the ECCN would clearly state that it applies to specific sighting devices, their associated optical elements, and adjustment mechanisms.

*Revisions to ECCN 0E984—Technology for shotguns.* This rule would modify ECCN 0E984 to apply CC Column 1 as a reason for control of technology for the development and production of all shotguns and shotgun shells controlled by ECCN 0A984. Currently, ECCN 0E984 applies reasons for control that are parallel to the reasons for control in ECCN 0A984, *i.e.*, CC Column 1, 2, or 3 is applied depending on whether the barrel length exceeds 24 inches and whether the end-user is a law enforcement agency. BIS is proposing the change described in this paragraph because it believes that the technology for the development and production of shotguns is substantially the same for all shotguns with barrel length exceeding 18 inches and does not vary based on the end user of the shotgun.

*Revisions to ECCN 3A981—Polygraphs and other electronic devices.* This proposed rule would add a cross reference to the restraint devices controlled by ECCN 0A982. This proposed rule would also add a note expressly stating that the electronic monitoring restraint devices in ECCN 3A981 are devices that monitor or report the location of confined persons for law enforcement or penal reasons. The note would exclude devices used to confine memory impaired patients to appropriate medical facilities. BIS views these proposed changes in wording as clarifications rather than substantive changes.

## Request for Comments

BIS is seeking public comments on this rule and will consider all comments received on or before September 25, 2009 in developing any final rule. Comments received after that date will be considered if feasible, but their consideration cannot be assured. All public comments on this rule must be in writing (including electronic postings on *regulations.gov* or e-mail) and will be a matter of public record, available for public inspection and copying.

## Rulemaking Requirements

1. This rule is a significant rule for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves a collection of information that has been approved by OMB under control number 0694-0088, which carries a burden hour estimate of 58 minutes to prepare and submit form BIS-748P. Miscellaneous and recordkeeping activities account for 12 minutes per submission. BIS believes that the changes proposed will increase the number of submissions subject to this collection by approximately 1,200 annually. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to Jasmeet Seehra, Office of Management and Budget (OMB), by e-mail to [jseehra@omb.eop.gov](mailto:jseehra@omb.eop.gov), or by fax to (202) 395-7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, Room 2705, 14th Street and Pennsylvania Ave., NW., Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as this term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States (see 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for

public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. However, to obtain the benefit of a variety of viewpoints, BIS is issuing this rule as a proposed rule with a request for comments.

## List of Subjects

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, BIS proposes to amend the Export Administration Regulations (15 CFR parts 730-774) as follows:

## PART 742—[AMENDED]

1. The authority citation for part 742 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; Pub. L. 106-508; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

2. In § 742.7, revise the heading, redesignate existing paragraph (a)(5) as paragraph (a)(6), add a new paragraph (a)(5) and revise paragraph (d) to read as follows:

### § 742.7 Crime control and detection.

(a) \* \* \*

(5) Items designed for the execution of human beings as identified in ECCN 0A981 require a license to all destinations including Canada.

\* \* \* \* \*

(d) *U.S. controls.* In maintaining its controls on crime control and detection items, the United States considers international norms regarding human rights and the practices of other countries that control exports to promote the observance of human rights. However, these controls are not based on the decisions of any multinational export control regime and may differ from controls imposed by other countries.

3. In § 742.11, revise the heading and paragraph (d) to read as follows:

### § 742.11 Specially designed implements of torture, including thumbscrews, thumbcuffs, fingercuffs, spiked batons, shock sleeves, and parts and accessories, n.e.s.

\* \* \* \* \*

(d) *U.S. controls.* In maintaining its controls on specially designed

instruments of torture the United States considers international norms regarding human rights and the practices of other countries that control exports to promote the observance of human rights. However, these controls are not based on the decisions of any multinational export control regime and may differ from controls imposed by other countries.

## PART 774—[AMENDED]

4. The authority citation for part 774 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.*, 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of July 23, 2008, 73 FR 43603 (July 25, 2008).

5. In Supplement No. 1 to part 774, Category 0, revise the heading of Export Control Classification (ECCN) 0A978 to read as follows:

**0A978 Law enforcement striking weapons, including saps, police batons, side handle batons, tonfas, sjamboks, and whips.**

\* \* \* \* \*

6. In Supplement No. 1 to part 774, Category 0, add a new ECCN 0A981 immediately following ECCN 0A980 and immediately preceding ECCN 0A982 to read as follows:

**0A981 Equipment designed for the execution of human beings (See list of items controlled).**

License Requirements

*Reason for Control:* CC.

*Control(s):* CC applies to entire entry. A license is required for all destinations regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See § 742.7 of the EAR for additional information.)

*License Exceptions*

LVS: N/A.

GBS: N/A.

CIV: N/A.

*List of Items Controlled*

*Unit:* \$ value.

*Related Controls:* N/A.

*Related Definitions:* N/A.

*Items:* a. Gallows and guillotines.

b. Electric chairs for the purpose of executing human beings.

c. Air tight vaults designed for the execution of human beings by the administration of a lethal gas or substance.

d. Automatic drug injection systems designed for the execution of human beings by administration of a lethal substance.

7. In Supplement No. 1 to part 774, Category 0, ECCN 0A982, revise the

heading, revise the "Related Controls" paragraph in the "List of Items Controlled" section and add a note at the end of ECCN 0A982 to read as follows:

0A982 Law enforcement restraint devices, including leg irons, shackles, and handcuffs; straight jackets; multipoint restraint devices such as restraint chairs; and parts and accessories, n.e.s.

License Requirements

\* \* \* \* \*

List of Items Controlled

Unit: \$ \* \* \*

Related Controls: Thumbcuffs, fingercuffs and shock sleeves are classified under ECCN 0A983, specially designed implements of torture. Other law enforcement restraint devices that administer an electric shock are controlled under ECCN 0A985. Restraint devices that electronically monitor or report the location of confined persons for law

enforcement or penal reasons are controlled under ECCN 3A981.

\* \* \* \* \*

Note to ECCN 0A982. This ECCN applies to restraint devices used in law enforcement activities. It does not apply to medical devices that are equipped to restrain patient movement during medical procedures. It does not apply to devices that confine memory impaired patients to appropriate medical facilities. It does not apply to safety equipment such as safety belts or child automobile safety seats.

8. In Supplement No. 1 to part 774, Category 0, ECCN 0A983, revise the heading, and add a note at the end of ECCN 0A983 to read as follows:

0A983 Specially designed implements of torture, including thumbscrews, thumbcuffs, fingercuffs, spiked batons, shock sleeves, and parts and accessories, n.e.s.

\* \* \* \* \*

Control(s)

Country Chart

Table with 2 columns: Control(s) and Country Chart. Rows include FC applies to entire entry, CC applies to shotguns with a barrel length greater than or equal to 18 in. (45.72 cm), but less than 24 in. (60.96 cm), CC applies to shotguns with a barrel length greater than or equal to 24 in. (60.96 cm), and UN applies to entire entry.

\* \* \* \* \*

10. In Supplement No. 1 to part 774, Category 0, ECCN 0A985, revise the heading and the "Related Controls" paragraph of the "List of Items Controlled" section to read as follows:

0A985 Discharge type arms and devices to administer electric shock, for example, stun guns, shock batons, stun cuffs, shock shields, electric cattle prods, immobilization guns and projectiles; except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.

\* \* \* \* \*

List of Items Controlled

Unit: \* \* \*

Related Controls: Shock sleeves are controlled by ECCN 0A983. Electronic devices that monitor and report a person's

location to enforce restrictions on movement for law enforcement or penal reasons are controlled under ECCN 3A981.

\* \* \* \* \*

11. In Supplement No. 1 to part 774, Category 0, ECCN 0A987, revise the heading and the "Items" paragraph of the "List of Items Controlled" section to read as follows:

0A987 Optical sighting devices for firearms (including shotguns controlled by 0A984); and parts (See list of items controlled).

\* \* \* \* \*

List of Items Controlled

Unit: \* \* \*

Related Controls: \* \* \*

Related Definitions: \* \* \*

Items: a. Telescopic sights.

b. Holographic sights.

Control(s)

Country Chart

Table with 2 columns: Control(s) and Country Chart. Row includes CC applies to "technology" for shotguns with a barrel length over 18 in. (45.72 cm), and for shotgun shells controlled by ECCN 0A984.

Note to ECCN 0A983. In this ECCN, "torture" has the meaning set forth in Section 2340(1) of Title 18, United States Code.

9. In Supplement No. 1 to part 774, Category 0, ECCN 0A984, revise the heading and the license requirements section of ECCN 0A984 to read as follows:

0A984 Shotguns with barrel length 18 inches (45.72 cm) or over; receivers; barrels of 18 inches (45.72 cm) or longer but not longer than 24 inches (60.96 cm); complete trigger mechanisms; magazines and magazine extension tubes; complete breech mechanisms; buckshot shotgun shells; except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use.

License Requirements

Reason for Control: CC, FC, UN.

- c. Reflex or "red dot" sights.
d. Reticle sights.
e. Other sighting devices that contain optical elements.
f. Laser pointing devices designed for use on firearms.
g. Lenses, other optical elements and adjustment mechanisms for articles in paragraphs a, b, c, d or e.

12. In Supplement No. 1 to part 774, Category 0, ECCN 0E984, revise the license requirements section of ECCN 0E984 to read as follows:

0E984 "Technology" for the "development" or "production" of shotguns controlled by 0A984 and buckshot shotgun shells.

License Requirements

Reason for Control: CC, UN.

13. In Supplement No. 1 to part 774, Category 3 add a note to the end of ECCN 3A981 to read as follows:

**3A981 Polygraphs (except biomedical recorders designed for use in medical facilities for monitoring biological and neurophysical responses); fingerprint analyzers, cameras and equipment, n.e.s.; automated fingerprint and identification retrieval systems, n.e.s.; psychological stress analysis equipment; electronic monitoring restraint devices; and specially designed parts and accessories, n.e.s.**

\* \* \* \* \*

*List of Items Controlled*

*Unit:* \* \* \*

*Related Controls:* See ECCN 0A982 for other types of restraint devices.

*Related Definitions:* \* \* \*

*Items:* \* \* \*

Note to ECCN 3A981. In this ECCN, electronic monitoring restraint devices are devices used to record or report the location of confined persons for law enforcement or penal reasons. The term does not include devices that confine memory impaired patients to appropriate medical facilities.

Dated: August 5, 2009.

**Matthew S. Borman,**

*Acting Assistant Secretary for Export Administration.*

[FR Doc. E9-19099 Filed 8-10-09; 8:45 am]

BILLING CODE 3510-33-P

## FEDERAL TRADE COMMISSION

### 16 CFR Part 425

#### Rule Concerning the Use of Prenotification Negative Option Plans

**AGENCY:** Federal Trade Commission (FTC or Commission)

**ACTION:** Re-opening the record for submission of public comments.

**SUMMARY:** The FTC re-opens the time period for filing public comments in response to its Advance Notice of Proposed Rulemaking and Request for Public Comments for sixty (60) days.

**DATES:** Written comments must be received on or before October 13, 2009.

**ADDRESSES:** Interested parties are invited to submit written comments. Comments should refer to "Prenotification Negative Option Rule Review, Matter No. P064202" to facilitate the organization of comments. Please note that your comment – including your name and your state – will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (<http://www.ftc.gov/os/publiccomments.shtml>).

Because comments will be made public, they should not include any

sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form and clearly labeled "Confidential."<sup>1</sup>

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (<https://secure.commentworks.com/ftc-NegativeOptionRuleANPR>) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink (<https://secure.commentworks.com/ftc-NegativeOptionRuleANPR>). If this Notice appears at (<http://www.regulations.gov/search/index.jsp>), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at (<http://www.ftc.gov>) to read the Notice and the news release describing it.

A comment filed in paper form should include the "Prenotification Negative Option Rule Review, Matter No. P064202" reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/ Office of the Secretary, Room H-135 (Annex Q), 600 Pennsylvania Avenue, N.W., Washington, DC. 20580. The FTC is requesting that any comment filed in paper form be sent by courier or

<sup>1</sup>The comment must also be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act ("FTC Act") and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtml>). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtml>).

**FOR FURTHER INFORMATION CONTACT:** Robin Rosen Spector, (202) 326-3740 or Matthew Wilshire, (202) 326-2976, Attorneys, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC. 20580.

**SUPPLEMENTARY INFORMATION:** On May 14, 2009, the Commission published an Advance Notice of Proposed Rulemaking ("Notice") seeking comment on the overall costs, benefits, necessity, and regulatory and economic impact of the FTC's Trade Regulation Rule concerning "Use of Prenotification Negative Option Plans"<sup>2</sup> ("Negative Option Rule" or "Rule"). Currently, the Rule addresses only prenotification negative option plans for the delivery of merchandise. The Notice solicits comments on whether the Commission should expand the Rule to address additional negative option marketing categories and on the Rule's costs and benefits. The notice designated July 27, 2009, as the deadline for filing public comments.

Three parties filed requests for an extension of the comment period in this matter in mid-July. The Commonwealth of Pennsylvania, Office of Attorney General, Bureau of Consumer Protection, "along with several other states including without limitation, Vermont, Florida, Iowa and Colorado" (collectively "states") requested a 30-day extension. The Broward County

<sup>2</sup>74 FR 22720 (May 14, 2009).