

adhered to in domestic law, the Department believes that providing for an injury determination in this case fulfills Congressional intent under the countervailing duty law.

Comment 3: Petitioners claim that the Department has deduced the requirement for an injury determination with respect to the outstanding order on lime from Mexico based on a single word, "levy," in Article VI. The Department's conclusion that "levy" means "assess" duties, thus creating an obligation to conduct an injury investigation on an order that was issued before any right to the injury test existed and in which no injury review is authorized by law, is a misreading of that provision. As used in Article VI, "levy" is merely a general reference to the overall process of imposing countervailing duties and not a specific step in that process, the actual assessment of duties. The definition of "levy" appears in a footnote to Article 4:2 of the "Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade" ("the Subsidies Code") and has meaning only as used in that context, to distinguish between provisional measures and the final assessment of countervailing duties. The definition does not govern, or have any special relevance to, interpreting the term in the context of Article VI. Thus, it does not have the far-reaching significance attributed to it by the Department.

Sonocal responds that the definition of "levy" cannot be restricted solely to the context of the Subsidies Code. The meaning of "levy" in Article VI is logically and properly found in the Subsidies Code, an international agreement concluded with the specific purpose of prescribing the interpretation and application of Article VI. Article VI states that no contracting party shall levy any countervailing duty on the products of another contracting party without a determination of injury and defines the right to an injury determination in absolute terms. The legislative history is also clear that Congress intended section 303(a)(2) to conform the countervailing duty law to Article VI. Consequently, there is no basis for inferring that the term "imposed" in section 303(a)(2) has any legal meaning independent of the term "levy" in Article VI or that a contracting party foregoes its right to an injury determination under Article VI because it became entitled to assert that right only after a countervailing duty order was issued. In fixing the point at which the right to an injury determination must

be accorded, Article VI refers only to the "levy" of duties.

Respondents assert that the term "levy" refers specifically to the final act of assessing countervailing duties. Thus, prior to Mexico's accession to the GATT, the Department was correct in assessing countervailing duties without an injury determination pursuant to section 303(a)(1). However, once Mexico became a contracting party to the GATT, Article VI became effective between the United States and Mexico, and section 303(a)(2) became the controlling statute. Thus, an affirmative injury determination by the ITC is a mandatory prerequisite to any assessment of countervailing duties on lime from Mexico subsequent to August 24, 1986. The exception for outstanding orders asserted by petitioners has no basis in Article VI or the countervailing duty law.

Department's Position: Although it is true that Article VI does not expressly define "levy," the word was used as it was commonly understood at the time, i.e., "imposing and collection of a tax or other payment." Because Mexico's entitlement to an injury determination prescribed by Article VI arose when it became a contracting party to the GATT, the United States cannot collect countervailing duties absent an affirmative injury determination.

Comment 4: Petitioners argue that the precedents for revoking this order cited by the Department, "Indian Fasteners" and "Carbon Steel Wire Rod from Trinidad & Tobago; Preliminary Results of Administrative Review and Tentative Determination to Revoke Countervailing Duty Order" (50 FR 19562; May 9, 1985) ("T & T Wire Rod") are inapplicable. These cases were wrongly decided because the United States' obligation under the GATT for providing an injury determination is prospective only and is required only with respect to investigations initiated after the change in status of the goods or the country involved. These cases also are distinguishable from this case because India and Trinidad & Tobago were contracting parties to the GATT when the countervailing duty investigations were conducted, whereas Mexico acceded to the GATT only after the order on lime was issued.

Respondents concur with the Department's reliance upon the "Indian Fasteners" and "T & T Wire Rod" precedents in making its determination to revoke this order and assert that petitioners have cited no legal precedent to contradict the Department's determinations in those cases. Even though the factual context in this case

may be slightly different from the precedents cited, the legal ramifications are exactly the same; section 303(a)(2) applies to merchandise whenever both factual prerequisites (duty-free status and international obligations) exist and the order in which these prerequisites were met is a distinction without a difference.

Department's Position: We addressed the issue of prospective application of U.S. obligations under Article VI in our response to Comment 1 and stand by our reliance on the "Indian Fasteners" and "T & T Wire Rod" precedents.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP90-73-000 et al.]

Pan American Gas Co., et al.; Natural Gas Certificate Filings

Correction

In notice document 89-27962 beginning on page 49342 in the issue of Thursday, November 30, 1989, make the following corrections:

1. On page 49346, in the second column, under **Transcontinental Gas Pipe Line**, the docket number should read "CP90-132-000".
2. On page 49349, in the first column, under 21. **Trunkline Gas Company**, the dateline should read "November 22, 1989."

BILLING CODE 1505-01-D

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; TIL-1]

Truth in Lending; Proposed Update to Official Staff Commentary

Correction

In proposed rule document 89-27270 beginning on page 48253 in the issue of Wednesday, November 22, 1989, make the following corrections:

1. On page 48257, in the first column, under **Subpart A—General**, in *Section 226.2—Definitions and Rules of Construction*, in the paragraph designated ▶3. *Charge card*, in the eighth line, "care" should read "card".
2. On the same page, in the same column, under **Subpart A—General**, in *Section 226.2—Definitions and Rules of Construction*, in paragraph 3., in the first

line, "Comment 2(a)(2)-5" should read "Comment 2(a)(20)-5".

3. On the same page, in the second column, in the paragraph designated 6. *Multiple purpose transactions.*, in the sixth line, the first "of" should read "or", and in the 13th line "purchase" was misspelled.

4. On the same page, in the same column, under *Section 226.5—General Disclosure Requirements*, in the heading *Paragraph 5(b)(1) Initial disclosure*, "disclosure" should read "disclosures".

5. On the same page, in the third column, in the paragraph designated 5. *Terminology.*, in the seventh line, "closed" should read "close".

6. On the same page, in the same column, in the paragraph designated 2. *Noncoverage of "consumer initiate" requests.*, "consumer initiate" should read "consumer initiated".

7. On page 48258, in the second column, in the heading *4a(b)(5) Grace period.*, *4a(b)(5)* should read *5a(b)(5)*.

8. On the same page, in the third column, in the first line, "but" should read "that", and in the third line, insert "a" following "of".

9. On page 48259, in the first column, under *5a(e) Applications and solicitations made available to general public.*, in paragraph 2. *Cross-selling.*, in the 10th line, "card" should read "car".

10. On the same page, in the second column, in the last line, insert "not" following "need".

11. On page 48260, in the second column, under *5b(a)(1) General.*, in paragraph 4. *Method of providing disclosures.*, in the 15th line, "conjunctions" should read "conjunction", and in the 30th line, "employees" should read "employee".

12. On page 48261, in the third column, in paragraph 2. *Fixed rate and term payment options during draw period.*, in the 28th line, "§ 26.5b(f)(1)" should read

"§ 226.5b(f)(1)" and in the 31st line, "§ 26.5b(d)(12)(xi)" should read "§ 226.5b(d)(12)(xi)".

13. On page 48262, in the first column, in paragraph 2. *Representative examples.*, in the 14th line "outstanding" is misspelled; in the 16th line, the first "of" should read "or"; in the 44th line, "disclosure" should read "disclosures"; and in the last line, insert a period following "[d](5)(iii)".

14. On the same page, in the second column, in paragraph 3. *Reverse mortgages.*, at the end of the first line, "mortgages" is misspelled.

15. On page 48263, in the second column, under "Paragraph 5b(d)(12)(x)", in paragraph 1. *maximum rate payment example.*, in the seventh line, "disclosure" should read "disclose".

16. On page 48264, in the first column, in paragraph 6. *Rate limitations.*, in the third line, insert a period following "example"; in the fifth line, "§ 226.5(d)(120)(ix)" should read "§ 226.5(d)(12)(ix)"; and in the eighth line, "annual" should read "annually".

17. On page 48265, in the first column, under "Paragraph 5b(f)(3)", in paragraph 1. *Scope of provision.*, in the 11th line, "later" should read "late".

18. On the same page, in the same column, under "Paragraph 5b(f)(3)", in paragraph 2. *Charges not covered.*, in the ninth line, "§ 226.4(d)92)" should read "§ 226.4(d)(2)".

19. On page 48267, in the third column, in paragraph 5. *Periodic fees.*, in the 11th line, "disclose" should read "discloses".

20. On page 48269, in the third column, in paragraph 25., in the heading *19(6) Certain variable-rate transactions.*, "19(6)" should read "19(b)".

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 88F-0175]

Indirect Food Additives: Polymers

Correction

In rule document 89-27874 beginning on page 49079 in the issue of Wednesday, November 29, 1989, make the following correction:

§ 177.1520 [Corrected]

On page 49080, in the table, in the second entry, move the "Do." from the fifth column to the second column.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 888

[Docket No. 86P-0426]

Hip Joint Metal/Ceramic/Polymer Semi-Constrained Cemented or Nonporous Uncemented Prosthesis; Announcement of Reclassification

Correction

In rule document 89-27375 beginning on page 48238 in the issue of Wednesday, November 22, 1989, make the following correction:

§ 888.3353 [Corrected]

On page 48239, in the second column, in the last line of § 888.3353(a) the word "our" should read "or".

BILLING CODE 1505-01-D