

National Transportation Safety Board  
 Nuclear Regulatory Commission  
 Overseas Private Investment Corporation  
 Administrative Conference of the United States  
 Board for International Broadcasting  
 Commission on Civil Rights  
 Commodity Futures Trading Commission  
 Peace Corps  
 National Archives and Records Administration

## ANNEX 2

The Power Marketing Administrations of the Department of Energy

Tennessee Valley Authority

St. Lawrence Seaway Development Corporation

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of Title 22, Foreign Relations and Intercourse.]

[For abolition, transfer of functions, and treatment of references to United States Arms Control and Disarmament Agency, see section 6511 et seq. of Title 22, Foreign Relations and Intercourse.]

### § 3312. Relationship of Agreement to United States and State law

#### (a) Relationship of Agreement to United States law

##### (1) United States law to prevail in conflict

No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

##### (2) Construction

Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, including any law regarding—

- (i) the protection of human, animal, or plant life or health,
- (ii) the protection of the environment, or
- (iii) motor carrier or worker safety; or

(B) to limit any authority conferred under any law of the United States, including section 2411 of this title;

unless specifically provided for in this Act.

#### (b) Relationship of Agreement to State law

##### (1) Federal-State consultation

###### (A) In general

On December 8, 1993, the President shall, through the intergovernmental policy advisory committees on trade established under section 2114c(2)(A) of this title, consult with the States for the purpose of achieving conformity of State laws and practices with the Agreement.

###### (B) Federal-State consultation process

The Trade Representative shall establish within the Office of the United States Trade Representative a Federal-State consultation process for addressing issues relating to the Agreement that directly relate to, or will potentially have a direct impact on, the States. The Federal-State consultation process shall include procedures under which—

- (i) the Trade Representative will assist the States in identifying those State laws that may not conform with the Agreement

but may be maintained under the Agreement by reason of being in effect before the Agreement entered into force;

(ii) the States will be informed on a continuing basis of matters under the Agreement that directly relate to, or will potentially have a direct impact on, the States;

(iii) the States will be provided opportunity to submit, on a continuing basis, to the Trade Representative information and advice with respect to matters referred to in clause (ii);

(iv) the Trade Representative will take into account the information and advice received from the States under clause (iii) when formulating United States positions regarding matters referred to in clause (ii); and

(v) the States will be involved (including involvement through the inclusion of appropriate representatives of the States) to the greatest extent practicable at each stage of the development of United States positions regarding matters referred to in clause (ii) that will be addressed by committees, subcommittees, or working groups established under the Agreement or through dispute settlement processes provided for under the Agreement.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Federal-State consultation process established by this paragraph.

##### (2) Legal challenge

No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

##### (3) “State law” defined

For purposes of this subsection, the term “State law” includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

##### (c) Effect of Agreement with respect to private remedies

No person other than the United States—

(1) shall have any cause of action or defense under—

(A) the Agreement or by virtue of Congressional approval thereof, or

(B) the North American Agreement on Environmental Cooperation or the North American Agreement on Labor Cooperation; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State on the ground that such action or inaction is inconsistent with the Agreement, the North American Agreement on Environmental Cooperation, or the North American Agreement on Labor Cooperation.

(Pub. L. 103-182, title I, §102, Dec. 8, 1993, 107 Stat. 2062.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(2), is Pub. L. 103-182, Dec. 8, 1993, 107 Stat. 2057, known as the North American Free Trade Agreement Implementation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (b)(1), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF NAFTA STATUS

Section to cease to have effect with respect to any country during any period in which such country ceases to be a NAFTA country, see section 109(b) of Pub. L. 103-182, set out as an Effective Date; Termination of NAFTA Status note under section 3311 of this title.

**§ 3313. Consultation and layover requirements for, and effective date of, proclaimed actions**

**(a) Consultation and layover requirements**

If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 2155 of this title, and

(B) the International Trade Commission;

(2) the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth—

(A) the action proposed to be proclaimed and the reasons therefor, and

(B) the advice obtained under paragraph (1);

(3) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of paragraphs (1) and (2) with respect to such action, has expired; and

(4) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

**(b) Effective date of certain proclaimed actions**

Any action proclaimed by the President under the authority of this Act that is not subject to the consultation and layover requirements under subsection (a) of this section may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

(Pub. L. 103-182, title I, §103, Dec. 8, 1993, 107 Stat. 2063.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 103-182, Dec. 8, 1993, 107 Stat. 2057, known as the North American Free Trade Agreement Implementation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables.

DELEGATION OF AUTHORITY

Memorandum of President of the United States, Sept. 29, 1995, 60 F.R. 52061, provided:

Memorandum for the United States Trade Representative

By virtue of the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, you are hereby delegated the authority set forth in section 103(a) of the North American Free Trade Agreement Implementation Act (“NAFTA Act”) [19 U.S.C. 3313(a)] and section 115 of the Uruguay Round Agreements Act (“Uruguay Round Act”) [19 U.S.C. 3524] to perform certain functions in order to fulfill the consultation and layover requirements set forth in those provisions, including:

(1) obtaining advice from the appropriate advisory committees and the U.S. International Trade Commission on the proposed implementation of an action by Presidential proclamation;

(2) submitting a report on such action to the House Ways and Means and Senate Finance Committees; and

(3) consulting with such committees during the 60-day period following the date on which the requirements under (1) and (2) have been met.

The President retains the sole authority under the NAFTA Act [Pub. L. 103-182, see Tables for classification] and Uruguay Round Act [Pub. L. 103-465, see Tables for classification] to implement an action by proclamation after the consultation and layover requirements set forth in section 103(a)(1) through (4) and section 115 of such Acts, respectively, have been met.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

TERMINATION OF NAFTA STATUS

Section to cease to have effect with respect to any country during any period in which such country ceases to be a NAFTA country, see section 109(b) of Pub. L. 103-182, set out as an Effective Date; Termination of NAFTA Status note under section 3311 of this title.

**§ 3314. Implementing actions in anticipation of entry into force and initial regulations**

**(a) Implementing actions**

After December 8, 1993—

(1) the President may proclaim such actions; and

(2) other appropriate officers of the United States Government may issue such regulations;

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date of entry into force. The 15-day restriction in section 3313(b) of this title on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

**(b) Initial regulations**

Initial regulations necessary or appropriate to carry out the actions proposed in the statement of administrative action submitted under section 3311(a)(2) of this title to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date of entry into force of the Agreement; except that interim or initial regulations to implement those Uniform Regulations regarding rules of or-