

§ 4016. Protection conferred by certificate of review

(a) Protection from civil or criminal antitrust actions

Except as provided in subsection (b) of this section, no criminal or civil action may be brought under the antitrust laws against a person to whom a certificate of review is issued which is based on conduct which is specified in, and complies with the terms of, a certificate issued under section 4013 of this title which certificate was in effect when the conduct occurred.

(b) Special restraint of trade civil actions; time limitations; certificate governed conduct presumed in compliance; award of costs to successful defendant; suit by Attorney General

(1) Any person who has been injured as a result of conduct engaged in under a certificate of review may bring a civil action for injunctive relief, actual damages, the loss of interest on actual damages, and the cost of suit (including a reasonable attorney's fee) for the failure to comply with the standards of section 4013(a) of this title. Any action commenced under this subchapter shall proceed as if it were an action commenced under section 15 or section 26 of this title, except that the standards of section 4013(a) of this title and the remedies provided in this paragraph shall be the exclusive standards and remedies applicable to such action.

(2) Any action brought under paragraph (1) shall be filed within two years of the date the plaintiff has notice of the failure to comply with the standards of section 4013(a) of this title but in any event within four years after the cause of action accrues.

(3) In any action brought under paragraph (1), there shall be a presumption that conduct which is specified in and complies with a certificate of review does comply with the standards of section 4013(a) of this title.

(4) In any action brought under paragraph (1), if the court finds that the conduct does comply with the standards of section 4013(a) of this title, the court shall award to the person against whom the claim is brought the cost of suit attributable to defending against the claim (including a reasonable attorney's fee).

(5) The Attorney General may file suit pursuant to section 25 of this title to enjoin conduct threatening clear and irreparable harm to the national interest.

(Pub. L. 97-290, title III, §306, Oct. 8, 1982, 96 Stat. 1243.)

EFFECTIVE DATE

Section effective Oct. 8, 1982, see section 312 of Pub. L. 97-290, set out as a note under section 4011 of this title.

§ 4017. Guidelines

(a) Issuance; content

To promote greater certainty regarding the application of the antitrust laws to export trade, the Secretary, with the concurrence of the Attorney General, may issue guidelines—

(1) describing specific types of conduct with respect to which the Secretary, with the concurrence of the Attorney General, has made or

would make, determinations under sections 4013 and 4014 of this title, and

(2) summarizing the factual and legal bases in support of the determinations.

(b) Administrative rulemaking requirements not applicable

Section 553 of title 5 shall not apply to the issuance of guidelines under subsection (a) of this section.

(Pub. L. 97-290, title III, §307, Oct. 8, 1982, 96 Stat. 1244.)

EFFECTIVE DATE

Section effective Oct. 8, 1982, see section 312 of Pub. L. 97-290, set out as a note under section 4011 of this title.

§ 4018. Annual reports

Every person to whom a certificate of review is issued shall submit to the Secretary an annual report, in such form and at such time as the Secretary may require, that updates where necessary the information required by section 4012(a) of this title.

(Pub. L. 97-290, title III, §308, Oct. 8, 1982, 96 Stat. 1244.)

EFFECTIVE DATE

Section effective Oct. 8, 1982, see section 312 of Pub. L. 97-290, set out as a note under section 4011 of this title.

§ 4019. Disclosure of information

(a) Exemption

Information submitted by any person in connection with the issuance, amendment, or revocation of a certificate of review shall be exempt from disclosure under section 552 of title 5.

(b) Protection of potentially harmful confidential information; exceptions: Congress; judicial or administrative proceedings; consent; necessity for determination; Federal law; regulations

(1) Except as provided in paragraph (2), no officer or employee of the United States shall disclose commercial or financial information submitted in connection with the issuance, amendment, or revocation of a certificate of review if the information is privileged or confidential and if disclosure of the information would cause harm to the person who submitted the information.

(2) Paragraph (1) shall not apply with respect to information disclosed—

(A) upon a request made by the Congress or any committee of the Congress,

(B) in a judicial or administrative proceeding, subject to appropriate protective orders,

(C) with the consent of the person who submitted the information,

(D) in the course of making a determination with respect to the issuance, amendment, or revocation of a certificate of review, if the Secretary deems disclosure of the information to be necessary in connection with making the determination,

(E) in accordance with any requirement imposed by a statute of the United States, or