

activities, or methods of operation which are in compliance with the standards of section 4013(a) of this title.

(3) For purposes of carrying out this subsection, the Attorney General, and the Assistant Attorney General in charge of the antitrust division of the Department of Justice, may conduct investigations in the same manner as the Attorney General and the Assistant Attorney General conduct investigations under section 1312 of this title, except that no civil investigative demand may be issued to a person to whom a certificate of review is issued if such person is the target of such investigation.

(Pub. L. 97-290, title III, §304, Oct. 8, 1982, 96 Stat. 1242.)

#### 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.

### § 4015. Judicial review; admissibility

#### (a) District court review of grants or denials; erroneous determination

If the Secretary grants or denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or modifies a certificate pursuant to section 4014(b) of this title, any person aggrieved by such determination may, within 30 days of the determination, bring an action in any appropriate district court of the United States to set aside the determination on the ground that such determination is erroneous.

#### (b) Exclusive provision for review

Except as provided in subsection (a), no action by the Secretary or the Attorney General pursuant to this subchapter shall be subject to judicial review.

#### (c) Inadmissibility in antitrust proceedings

If the Secretary denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or amends a certificate, neither the negative determination nor the statement of reasons therefor shall be admissible in evidence, in any administrative or judicial proceeding, in support of any claim under the antitrust laws.

(Pub. L. 97-290, title III, §305, 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.

### § 4016. Protection conferred by certificate of review

#### (a) Protection from civil or criminal antitrust actions

Except as provided in subsection (b), 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).

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