

SEC. 7. Individuals within the Executive Office of the President shall follow a policy of: (a) refusing to discuss matters relating to the disposition of a case subject to the review of the President under Section 801 with any interested private party, or an attorney or agent for any such party, prior to the decision by the President or his designee; and (b) referring any written communication from an interested private party, or an attorney or agent for any such party, to the appropriate department or agency outside of the Executive Office of the President. Exceptions to this policy may be made only when the head of an appropriate department or agency outside of the Executive Office of the President personally finds, on a nondelegable basis, that direct written or oral communication between a private party and a person within the Executive Office of the President is needed for reasons of defense or foreign policy.

SEC. 8. Departments and agencies outside of the Executive Office of the President that regularly make recommendations in connection with the presidential review pursuant to Section 801 shall, consistent with applicable law, including the provisions of Chapter 5 of Title 5 of the United States Code:

(a) establish public dockets for all written communications (other than those requiring confidential treatment for defense or foreign policy reasons) between their officers and employees and private parties in connection with the preparation of such recommendations; and

(b) prescribe such other procedures governing oral and written communications as they deem appropriate.

SEC. 9. This Order is intended solely for the internal guidance of the departments and agencies in order to facilitate the presidential review process. This Order does not confer rights on any private parties.

SEC. 10. None of the time deadlines specified in this Order shall be construed as a limitation on expedited presidential review of any decision under Section 801.

SEC. 11. The provisions of this Order shall become effective upon publication in the Federal Register and shall govern the review of any proposed decisions of the DOT that have not become final prior to that date under Executive Order No. 12547.

SEC. 12. References in any Executive order to any provision in Executive Order No. 12547 shall be deemed to refer to the corresponding provision in this Order.

RONALD REAGAN.

**§ 41308. Exemption from the antitrust laws**

(a) DEFINITION.—In this section, “antitrust laws” has the same meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

(b) EXEMPTION AUTHORIZED.—When the Secretary of Transportation decides it is required by the public interest, the Secretary, as part of an order under section 41309 or 42111 of this title, may exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

(c) EXEMPTION REQUIRED.—In an order under section 41309 of this title approving an agreement, request, modification, or cancellation, the Secretary, on the basis of the findings required under section 41309(b)(1), shall exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1128.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
41308 .....	49 App.:1384.	Aug. 23, 1958, Pub. L. 85-726, §414, 72 Stat. 770; restated Oct. 24, 1978, Pub. L. 95-504, §30(a), 92 Stat. 1731; Feb. 15, 1980, Pub. L. 96-192, §27, 94 Stat. 47.
	49 App.:1551(a)(6) (related to 49 App.:1384).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(a)(6) (related to §414); added Oct. 4, 1984, Pub. L. 98-443, §3(c), 98 Stat. 1704.
	49 App.:1551(b)(1)(C) (related to 49 App.:1384).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(C) (related to §414); added Oct. 24, 1978, Pub. L. 95-504, §40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97-309, §4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98-443, §3(a), 98 Stat. 1703.

Subsection (a) is substituted for “the ‘anti-trust laws’ set forth in subsection (a) of section 12 of title 15” for consistency in the revised title and with other titles of the United States Code.

In subsection (b), reference to 49 App.:1378 and 1379 is omitted as obsolete.

**§ 41309. Cooperative agreements and requests**

(a) FILING.—An air carrier or foreign air carrier may file with the Secretary of Transportation a true copy of or, if oral, a true and complete memorandum of, an agreement (except an agreement related to interstate air transportation), or a request for authority to discuss cooperative arrangements (except arrangements related to interstate air transportation), and any modification or cancellation of an agreement, between the air carrier or foreign air carrier and another air carrier, a foreign carrier, or another carrier.

(b) APPROVAL.—The Secretary of Transportation shall approve an agreement, request, modification, or cancellation referred to in subsection (a) of this section when the Secretary finds it is not adverse to the public interest and is not in violation of this part. However, the Secretary shall disapprove—

(1) or, after periodic review, end approval of, an agreement, request, modification, or cancellation, that substantially reduces or eliminates competition unless the Secretary finds that—

(A) the agreement, request, modification, or cancellation is necessary to meet a serious transportation need or to achieve important public benefits (including international comity and foreign policy considerations); and

(B) the transportation need cannot be met or those benefits cannot be achieved by reasonably available alternatives that are materially less anticompetitive; or

(2) an agreement that—

(A) is between an air carrier not directly operating aircraft in foreign air transportation and a carrier subject to subtitle IV of this title; and

(B) governs the compensation the carrier may receive for the transportation.

(c) NOTICE AND OPPORTUNITY TO RESPOND OR FOR HEARING.—(1) When an agreement, request, modification, or cancellation is filed, the Sec-