

§ 0.39b

assigned by such official to undertake the investigation.

(i) Submit to the Attorney General and the Deputy Attorney General or, if submission to both would be inappropriate, to whichever of them would be proper or to the Associate Attorney General or the Solicitor General:

(1) An immediate report concerning any matter referred under paragraph (d)(1) or (d)(2) of this section that should be brought to the attention of a higher official;

(2) An immediate report concerning the adequacy of any investigation of a matter referred under paragraph (d) of this section, if the Counsel believes that a significant question exists as to the adequacy of such investigation; and

(3) An annual report, or a semi-annual report if the Counsel determines this to be necessary, reviewing and evaluating the activities of internal inspection units, or where there are no such units, the discharge of comparable duties within the Department.

(j) Submit recommendations to the Attorney General and the Deputy Attorney General on the need for changes in policies or procedures that become evident during the course of the Counsel's inquiries.

(k) Undertake any other responsibilities assigned by the Attorney General including duties relating to the improvement of the performance of the Department.

§ 0.39b Confidentiality of information.

Whenever any employee of or applicant to the Department provides information pursuant to § 0.39a(a) or (b), the Counsel and the internal inspection unit shall maintain the confidentiality of the employee or applicant unless the employee or applicant consents to the release of his or her identity or the Counsel determines that the disclosure of the identity is necessary to resolve the allegation.

§ 0.39d Relationship to other departmental units.

(a) Primary responsibility for assuring the maintenance of the highest standards of professional responsibility by Department employees shall continue to rest with the heads of the of-

28 CFR Ch. I (7-1-02 Edition)

fices, divisions, bureaus and boards of the Department.

(b) Primary responsibility for investigating an allegation of unprofessional conduct that is lodged against an employee of the Department normally shall continue to rest with the head of the office, division, bureau, or board to which the employee is assigned, or with the head of its internal inspection unit, or, if the conduct appears to constitute a violation of law, with the head of the agency having jurisdiction over the subject matter involved.

(c) The heads of the offices, divisions, bureaus, and boards shall provide information and assistance requested by the Counsel in connection with reviews or investigations conducted by the Counsel or by any other person assigned to conduct reviews or investigations and shall keep the Counsel informed of major investigations that they are conducting.

(d) Employees of the Department may be assigned to the Office of Professional Responsibility on a case-by-case basis to conduct such inquiries as may be warranted. However, no investigative personnel shall be assigned except under the specific direction of the Attorney General or the Deputy Attorney General and, in normal course, with the agreement of the head of the unit to which the investigative personnel are regularly assigned. Personnel assigned to the Office shall work under the direction of the Counsel.

§ 0.39e Committee on Professional Responsibility.

The Committee on Professional Responsibility shall consist of Department officials designated by the Attorney General and shall serve as an advisory body to the counsel.

Subpart H—Antitrust Division

§ 0.40 General functions.

The following functions are assigned to and shall be conducted, handled, or supervised by, the Assistant Attorney General, Antitrust Division:

(a) General enforcement, by criminal and civil proceedings, of the Federal antitrust laws and other laws relating to the protection of competition and the prohibition of restraints of trade

Department of Justice

§ 0.40

and monopolization, including conduct of surveys of possible violations of antitrust laws, conduct of grand jury proceedings, issuance and enforcement of civil investigative demands, civil actions to obtain orders and injunctions, civil actions to recover forfeitures or damages for injuries sustained by the United States as a result of antitrust law violations, proceedings to enforce compliance with final judgments in antitrust suits and negotiation of consent judgments in civil actions, civil actions to recover penalties, criminal actions to impose penalties including actions for the imposition of penalties for conspiring to defraud the Federal Government by violation of the antitrust laws, participation as *amicus curiae* in private antitrust litigation; and prosecution or defense of appeals in antitrust proceedings.

(b) Intervention or participation before administrative agencies functioning wholly or partly under regulatory statutes in administrative proceedings which require consideration of the antitrust laws or competitive policies, including such agencies as the Civil Aeronautics Board, Interstate Commerce Commission, Federal Communications Commission, Federal Maritime Commission, Federal Energy Regulatory Commission, Federal Reserve Board, Federal Trade Commission, Nuclear Regulatory Commission, and Securities and Exchange Commission, except proceedings referred to any agency by a federal court as an incident to litigation being conducted under the supervision of another Division in this Department.

(c) Developing procedures to implement, receiving information, maintaining records, and preparing reports by the Attorney General to the President as required by Executive Order 10936 of April 25, 1961 relating to identical bids submitted to Federal and State departments and agencies.

(d) As the delegate of the Attorney General furnishing reports and summaries thereof respecting the competitive factors involved in proposed mergers or consolidations of insured banks required by the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828(c)), furnishing reports respecting the competitive factors involved in

proposed acquisitions under the Savings and Loan Holding Company Amendments of 1967 (12 U.S.C. 1730a(e)), furnishing advice regarding the proposed disposition of surplus Government property required by the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 488), furnishing reports regarding deepwater port licenses under the Deepwater Port Act of 1974 (33 U.S.C. 1506), furnishing advice and reports regarding federal coal leases under the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 184(1)), furnishing advice on oil and gas leasing under the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1334(a) 1334(f)(3). 1337), furnishing reports and recommendations regarding the issuance of licenses for exploration or permits for commercial recovery of deep seabed hard minerals pursuant to the Deep Seabed Hard Minerals Resources Act (30 U.S.C. 1413(d)), furnishing advice or reports regarding contracts or operating agreements concerning exploration, development or production of petroleum reserves under the Naval Petroleum Reserves Production Act of 1976 (10 U.S.C. 7430(g)(1)), and furnishing advice regarding nuclear licenses under the Atomic Energy Act of 1954 (42 U.S.C. 2135).

(e) Preparing the approval or disapproval of the Attorney General whenever such action is required by statute from the standpoint of the antitrust laws as a prerequisite to the development of Defense Production Act voluntary programs or agreements and small business production or raw material pools, the national defense program and atomic energy matters.

(f) Assembling information and preparing reports required or requested by the Congress or the Attorney General as to the effect upon the maintenance and preservation of competition under the free enterprise system of various Federal laws or programs, including the Defense Production Act of 1950, the Small Business Act, the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 208-2), the Naval Petroleum Reserves Production Act of 1976 (10 U.S.C. 7431(b)(2)), and the joint resolution of July 28, 1955, giving consent to the

§0.41

28 CFR Ch. I (7-1-02 Edition)

Interstate Compact to Conserve Oil and Gas.

(g) Preparing for transmittal to the President, Congress, or other departments or agencies views or advice as to the propriety or effect of any action, program or practice upon the maintenance and preservation or competition under the free enterprise system.

(h) Representing the Attorney General on interdepartmental or inter-agency committees concerned with the maintenance and preservation of competition generally and in various sections of the economy and the operation of the free enterprise system and when authorized participating in conferences and committees with foreign governments and treaty organizations concerned with competition and restrictive business practices in international trade.

(i) Collecting fines, penalties, judgments, and forfeitures arising in anti-trust cases.

(j) [Reserved]

(k) As the delegate of the Attorney General, performance of all functions which the Attorney General is required or authorized to perform by title III of Public Law 97-290 (15 U.S.C. 4011-4021) with respect to export trade certificates of review.

[Order No. 617-75, 40 FR 36118, Aug. 19, 1975, as amended by Order No. 699-77, 42 FR 15315, Mar. 21, 1977; Order No. 960-81, 46 FR 52344, Oct. 27, 1981; Order Nos. 1002-83, 1003-83, 48 FR 9522, 9523, Mar. 7, 1983]

§0.41 Special functions.

The following functions are assigned to, and shall be conducted, handled, or supervised by, the Assistant Attorney General, Antitrust Division:

(a) Institution of proceedings to impose penalties for violations of section 202(a) of the Communications Act of 1934 (48 Stat. 1070), as amended (47 U.S.C. 202(a)), which prohibits common carriers by wire or radio from unjustly or unreasonably discriminating among persons, classes of persons, or localities.

(b) Representing the United States in suits pending as of February 28, 1975, before three-judge district courts under sections 2321-2325 of title 28 of the U.S. Code, to enforce, suspend, enjoin, annul, or set aside, in whole or in part,

any order of the Interstate Commerce Commission. (Pub. L. 93-584, Sec. 10, 88 Stat. 1917)

(c) Representing the United States in proceedings before courts of appeals to review orders of the Interstate Commerce Commission, the Federal Communications Commission, the Federal Maritime Commission and the Nuclear Regulatory Commission (28 U.S.C. 2341-2350).

(d) Representing the Civil Aeronautics Board, and the Secretary of the Treasury or his delegates under the Federal Alcohol Administration Act, in courts of appeals reviewing their respective administrative orders.

(e) Defending the Secretary of the Treasury or his delegates under the Federal Alcohol Administration Act, and the agencies named in paragraphs (c), (d) and (e) of this section or their officers against the injunctive actions brought in Federal courts when the matter which is the subject of the actions will ultimately be the subject of review under paragraph (c), (d), (e) or (g) of this section, or of an enforcement action under paragraph (b) of this section.

(f) Seeking review of or defending judgments rendered in proceedings under paragraphs (a) through (e) of this section.

(g) Acting on behalf of the Attorney General with respect to sections 252 and 254 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, 6274, including acting on behalf of the Attorney General with respect to voluntary agreements or plans of action established pursuant to section 252 of that Act.

(h) [Reserved]

(i) Acting on behalf of the Attorney General with respect to sections 4(b), 4(c) and 4(d) of the National Cooperative Production Amendments of 1993, Pub. L. No. 103-42, 107 Stat. 117 (15 U.S.C. 4305 note).

(j) Defending the Secretary of Commerce and the Attorney General, or their delegates, in actions to set aside a determination with respect to export trade certificates of review under section 305(a) of Public Law 97-290 (15 U.S.C. 4015(a)).

(k) Acting on behalf of the Attorney General with respect to section 6 of the