

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

OST Docket No. 1; Amdt. 1-2171

**Violation Proceedings; Organization and Delegation of Powers and Duties**

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final Rule.

**SUMMARY:** This rule delegates to the General Counsel the authority of the Secretary to exercise, in certain cases, the President's statutory authority to review and determine not to disapprove orders of the Department in foreign air transportation.

**EFFECTIVE DATE:** This rule is effective (May 20, 1987).

**FOR FURTHER INFORMATION CONTACT:**

Lawrence Myers, Office of the General Counsel [C-20], U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590; (202) 366-9183.

**SUPPLEMENTARY INFORMATION: Section 801 of the Federal Aviation Act (49 U.S.C. 1461)**

provides for Presidential review of DOT orders affecting carrier operating rights or prices in foreign air transportation. The President may disapprove any such order for foreign relations or national defense reasons, within 60 days in the case of orders affecting carrier certificates or permits, and within 10 days in the case of orders affecting fares, rates or charges.

Executive orders implementing this review process have permitted federal departments and agencies to advise the President on the foreign relations and national defense implications of such DOT orders. Executive Order 12547,

issued February 6, 1986, assigned to the Department the function of transmitting its reviewable orders to certain specified Executive departments and agencies and soliciting their recommendations, if any, for transmittal to the President. If no agency or department recommended disapproval, or a statement of reasons for non-disapproval, the Order directed the Department to so indicate in a memorandum to the President through the Assistant to the President for National Security Affairs. If any such recommendations were received the Department was to forward them to the Assistant to the President for National Security Affairs for his or her summary and recommendation to the President.

A new procedure was adopted by Executive Order 12597, of May 13, 1987 (52 FR 18335). By that Order the President authorized the Secretary to receive reviewable DOT orders on his behalf and delegated to her the exercise of his statutory review authority in the case of orders which elicit no written recommendations from the coordinating Executive departments and agencies within specified response periods. In such cases, the Secretary may determine not to disapprove the order and issue it for immediate effectiveness. Where written recommendations are received, the existing procedure is to be followed.

This rule delegates the Secretary's new authority to act for the President to the General Counsel, including the acting General Counsel in his or her absence. The Office of the General Counsel is vested with the responsibility for administering the current Executive Order and receiving recommendations from other agencies under that Order. Thus, the General Counsel will, in the future, be able to determine the effective

date of orders subject to the 801 review process where no written recommendations are received from other agencies. Under §§ 1.43 and 1.55 of this Part, the Secretary or the Deputy Secretary may exercise the authority delegated herein.

Since this amendment relates to Departmental management, procedures, and practices, notice and comment on it are unnecessary and it may be made effective in less than thirty days after publication in the Federal Register. This rule is a nonsignificant rule under the Department of Transportation's Regulatory Policies and Procedures.

**List of subjects in 49 CFR Part 1**

Authority delegations (government agencies).

As Secretary of the Department of Transportation, I amend 49 CFR Part 1 *Organization and Delegation of Powers and Duties*, to read as follows:

**PART 1—[AMENDED]**

1. The authority of Part 1 continues to read as follows:

**Authority:** 49 U.S.C. 322, 1652 and 1657(e)

**§ 1.57 [Amended]**

2. In paragraph 1.57, *Delegations to General Counsel*, a new paragraph (r) is added at the end thereof, to read as follows:

(r) Exercise the review authority delegated to the Secretary by the President in Executive Order 12597 of May 13, 1987.

Issued in Washington, DC on May 13, 1987

**Elizabeth Hanford Dole,**

*Secretary of Transportation.*

[FR Doc. 87-11520 Filed 5-19-87; 8:45 am]

**BILLING CODE 4910-62-M**

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[ 49 CFR Part 1 ]

(OST Docket No.1; Amdt. 1-217)

ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

**AGENCY:** Department of Transportation (DOT), Office of the Secretary

**ACTION:** Final Rule

**SUMMARY:** This rule delegates to the General Counsel the authority of the Secretary to exercise, in certain cases, the President's statutory authority to review and determine not to disapprove orders of the Department in foreign air transportation.

**DATE:** This rule is effective upon publication in the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Lawrence Myers, Office of the General Counsel K-201, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590; (202) 366-9183.

**SUPPLEMENTARY INFORMATION:** Section 801 of the Federal Aviation Act (49 U.S.C. 1461) provides for Presidential review of DOT orders affecting carrier operating rights or prices in foreign air transportation. The President may disapprove any such order for foreign relations or national defense reasons, within 60 days in the case of orders affecting carrier certificates or permits, and within 10 days in the case of orders affecting fares, rates or charges.

Executive orders implementing this review process have permitted federal departments and agencies to advise the President on the foreign relations and national defense implications of such DOT orders. Executive Order 12547, issued February 6, 1986, assigned to the Department the function of transmitting its reviewable orders to certain specified Executive departments and agencies and soliciting their recommendations, if any, for transmittal to the President. If no agency or department recommended disapproval, or a statement of reasons for non-disapproval, the Order directed the Department to so indicate in a memorandum to the President through the Assistant to the President for National Security Affairs. If any such recommendations were received, the Department was to forward them to the Assistant to the President for National Security Affairs for his or her summary and recommendation to the President.

A new procedure was adopted by Executive Order 12597, of May 13, 1987 (52 F.R. 18335). By that Order the President authorized the Secretary to receive reviewable DOT orders on his behalf and delegated to her the exercise of **his** statutory review authority in the case of orders which elicit no written recommendations from the coordinating Executive departments and agencies within specified response periods. In such **cases**, the Secretary may determine not to disapprove the order and issue it for immediate effectiveness. Where written recommendations are received, the existing procedure is to be followed.

This rule delegates the Secretary's new authority to act for the President to the General Counsel, including the acting General Counsel in his or her absence. The Office of the General Counsel is vested with the responsibility for administering the current Executive Order and receiving recommendations from other agencies under that Order. Thus, the General Counsel will, in the future, be able to determine the effective date of orders subject to the 801 review process where no written recommendations are received from other agencies. Under Sections 1.43 and 1.55 of this Part, the Secretary or the Deputy Secretary may exercise the authority delegated herein.

Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in less than thirty days after

publication in the Federal Register. This rule is a nonsignificant rule under the Department of Transportation's Regulatory Policies and Procedures.

**List of Subjects in 49 CFR Part 1:**

Authority delegations (government agencies)

As Secretary of the Department of Transportation, I amend 49 CFR Part 1, Organization and Delegation of Powers and Duties, to read as follows:

1. The authority of Part 1 continues to read as follows:

AUTHORITY: 49 U.S.C. 322, 1652 and 1657(e)

2. In paragraph 1.57, Delegations to General Counsel, a new subparagraph (r) is added at the end thereof, to read as follows:

(r) Exercise the review authority delegated to the Secretary by the President in Executive Order **12597** of May 13, 1987.

Issued in Washington, DC, on May 13, 1987

CERTIFIED TO BE A TRUE  
COPY OF THE ORIGINAL:

  
LINDA W. SENESE  
CERTIFYING OFFICER

  
Elizabeth Hanford Dole  
Secretary of Transportation