

(c) *Deferral to outcome of other proceedings.* A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-to-case basis, after careful scrutiny of all available information. Before deferring to the results of other proceedings, it must be clear that those proceedings dealt adequately with all factual issues, that the proceedings were fair, regular, and free of procedural infirmities, and that the outcome of the proceedings was not repugnant to the purpose and policy of the Act. In this regard, if such other actions initiated by a complainant are dismissed without adjudicatory hearing thereof, such dismissal will not ordinarily be regarded as determinative of the section 11(c) complaint.

SOME SPECIFIC SUBJECTS

§ 1977.22 Employee refusal to comply with safety rules.

Employees who refuse to comply with occupational safety and health standards or valid safety rules implemented by the employer in furtherance of the Act are not exercising any rights afforded by the Act. Disciplinary measures taken by employers solely in response to employee refusal to comply with appropriate safety rules and regulations, will not ordinarily be regarded as discriminatory action prohibited by section 11(c). This situation should be distinguished from refusals to work, as discussed in § 1977.12.

§ 1977.23 State plans.

A State which is implementing its own occupational safety and health enforcement program pursuant to section 18 of the Act and parts 1902 and 1952 of this chapter must have provisions as effective as those of section 11(c) to protect employees from discharge or discrimination. Such provisions do not divest either the Secretary of Labor or Federal district courts of jurisdiction over employee complaints of discrimination. However, the Secretary of Labor may refer complaints of employees adequately protected by State Plans' provisions to the appropriate state agency. The basic principles outlined in § 1977.18, *supra* will be observed

as to deferrals to findings of state agencies.

PART 1978—RULES FOR IMPLEMENTING SECTION 405 OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982 (STAA)

Subpart A—Interpretive Rules [Reserved]

Subpart B—Rules of Procedure

COMPLAINTS, INVESTIGATIONS, FINDINGS AND PRELIMINARY ORDERS

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- 1978.112 Arbitration or other proceedings.
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AUTHORITY: 29 U.S.C. 657(g)(2); 29 U.S.C. 660(c)(2); 49 U.S.C. 31101 and 31105; Secretary of Labor's Order No. 1-90, 55 FR 9033.

SOURCE: 53 FR 47681, Nov. 25, 1988, unless otherwise noted.

Subpart A—Interpretive Rules [Reserved]

Subpart B—Rules of Procedure

COMPLAINTS, INVESTIGATIONS, FINDINGS AND PRELIMINARY ORDERS

§ 1978.100 Purpose and scope.

(a) This subpart implements the procedural aspects of section 405 of the Surface Transportation Assistance Act of 1982, 49 U.S.C. 2305, which provides