

### Subpart C—Miscellaneous Provisions

#### § 1980.111 **Withdrawal of complaints, objections, and findings; settlement.**

(a) At any time prior to the filing of objections to the findings or preliminary order, a complainant may withdraw his or her complaint under the Act by filing a written withdrawal with the Assistant Secretary. The Assistant Secretary will then determine whether the withdrawal will be approved. The Assistant Secretary will notify the named person of the approval of any withdrawal. If the complaint is withdrawn because of settlement, the settlement will be approved in accordance with paragraph (d) of this section.

(b) The Assistant Secretary may withdraw his or her findings or a preliminary order at any time before the expiration of the 30-day objection period described in § 1980.106, provided that no objection has yet been filed, and substitute new findings or preliminary order. The date of the receipt of the substituted findings or order will begin a new 30-day objection period.

(c) At any time before the findings or order become final, a party may withdraw his or her objections to the findings or order by filing a written withdrawal with the administrative law judge or, if the case is on review, with the Board. The judge or the Board, as the case may be, will determine whether the withdrawal will be approved. If the objections are withdrawn because of settlement, the settlement will be approved in accordance with paragraph (d) of this section.

(d)(1) *Investigative settlements.* At any time after the filing of a complaint, and before the findings and/or order are objected to or become a final order by operation of law, the case may be settled if the Assistant Secretary, the complainant and the named person agree to a settlement.

(2) *Adjudicatory settlements.* At any time after the filing of objections to the Assistant Secretary's findings and/or order, the case may be settled if the participating parties agree to a settlement and the settlement is approved by the administrative law judge if the case is before the judge, or by the Board if a timely petition for review

has been filed with the Board. A copy of the settlement will be filed with the administrative law judge or the Board, as the case may be.

(e) Any settlement approved by the Assistant Secretary, the administrative law judge, or the Board, will constitute the final order of the Secretary and may be enforced pursuant to § 1980.113.

#### § 1980.112 **Judicial review.**

(a) Within 60 days after the issuance of a final order under § 1980.110, any person adversely affected or aggrieved by the order may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation allegedly occurred or the circuit in which the complainant resided on the date of the violation. A final order of the Board is not subject to judicial review in any criminal or other civil proceeding.

(b) If a timely petition for review is filed, the record of a case, including the record of proceedings before the administrative law judge, will be transmitted by the Board to the appropriate court pursuant to the rules of the court.

#### § 1980.113 **Judicial enforcement.**

Whenever any person has failed to comply with a preliminary order of reinstatement or a final order or the terms of a settlement agreement, the Secretary or a person on whose behalf the order was issued may file a civil action seeking enforcement of the order in the United States district court for the district in which the violation was found to have occurred.

#### § 1980.114 **District Court jurisdiction of discrimination complaints.**

(a) If the Board has not issued a final decision within 180 days of the filing of the complaint, and there is no showing that there has been delay due to the bad faith of the complainant, the complainant may bring an action at law or equity for *de novo* review in the appropriate district court of the United States, which will have jurisdiction over such an action without regard to the amount in controversy.

(b) Fifteen days in advance of filing a complaint in Federal court, a complainant must file with the administrative law judge or the Board, depending upon where the proceeding is pending, a notice of his or her intention to file such a complaint. The notice must be served upon all parties to the proceeding. If the Assistant Secretary is not a party, a copy of the notice must be served on the Assistant Secretary, Occupational Safety and Health Administration, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

**§ 1980.115 Special circumstances; waiver of rules.**

In special circumstances not contemplated by the provisions of this part, or for good cause shown, the administrative law judge or the Board on review may, upon application, after three days notice to all parties and interveners, waive any rule or issue any orders that justice or the administration of the Act requires.

**PART 1981—PROCEDURES FOR THE HANDLING OF DISCRIMINATION COMPLAINTS UNDER SECTION 6 OF THE PIPELINE SAFETY IMPROVEMENT ACT OF 2002**

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AUTHORITY: 49 U.S.C. 60129; Secretary of Labor's Order 5-2002, 67 FR 65008 (October 22, 2002).

SOURCE: 69 FR 17591, Apr. 5, 2004, unless otherwise noted.

**Subpart A—Complaints, Investigations, Findings, and Preliminary Orders**

**§ 1981.100 Purpose and scope.**

(a) This part implements procedures under section 6 of the Pipeline Safety Improvement Act of 2002, 49 U.S.C. 60129 (“the Pipeline Safety Act”), which provides for employee protection from discrimination by a person owning or operating a pipeline facility or a contractor or subcontractor of such person because the employee has engaged in protected activity pertaining to a violation or alleged violation of any order, regulation, or standard under chapter 601, subtitle VIII of title 49 of the United States Code or any other provision of Federal law relating to pipeline safety.

(b) This part establishes procedures pursuant to the Pipeline Safety Act for the expeditious handling of discrimination complaints made by employees, or by persons acting on their behalf. These rules, together with those rules codified at 29 CFR part 18, set forth the procedures for submission of complaints under the Pipeline Safety Act, investigations, issuance of findings and preliminary orders, objections to findings and orders, litigation before administrative law judges, post-hearing administrative review, and withdrawals and settlements.

**§ 1981.101 Definitions.**

“Act” or “Pipeline Safety Act” means section 6 of the Pipeline Safety Improvement Act of 2002, Public Law No. 107-355, December 17, 2002, 49 U.S.C. 60129.