

§ 386.13

paragraphs (a) and (b), redesignating paragraphs (c) through (e) as (a) through (c) and by revising the new paragraph (b), effective November 14, 2005. For the convenience of the user, the revised text is set forth as follows:

§ 386.12 Complaint.

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(b) *Action on complaint of substantial violation.* Upon the filing of a complaint of a substantial violation under paragraph (a) of this section, the Assistant Administrator shall determine whether it is nonfrivolous and meets the requirements of paragraph (a) of this section. If the Assistant Administrator determines the complaint is nonfrivolous and meets the requirements of paragraph (a), he/she shall investigate the complaint. The complainant shall be timely notified of findings resulting from such investigation. The Assistant Administrator shall not be required to conduct separate investigations of duplicative complaints. If the Assistant Administrator determines the complaint is frivolous or does not meet the requirements of the paragraph (a), he/she shall dismiss the complaint and notify the complainant in writing of the reasons for such dismissal.

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§ 386.13 Petitions to review and request for hearing: Driver qualification proceedings.

(a) Within 60 days after service of the determination under §391.47 of this chapter or the letter of disqualification, the driver or carrier may petition to review such action. Such petitions must be submitted to the Assistant Administrator and must contain the following:

- (1) Identification of what action the petitioner wants overturned;
 - (2) Copies of all evidence upon which petitioner relies in the form set out in §386.49;
 - (3) All legal and other arguments which the petitioner wishes to make in support of his/her position;
 - (4) A request for oral hearing, if one is desired, which must set forth material factual issues believed to be in dispute;
 - (5) Certification that the reply has been filed in accordance with §386.31; and
 - (6) Any other pertinent material.
- (b) Failure to submit a petition as specified in paragraph (a) of this sec-

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tion shall constitute a waiver of the right to petition for review of the determination or letter of disqualification. In these cases, the determination or disqualification issued automatically becomes the final decision of the Assistant Administrator 30 days after the time to submit the reply or petition to review has expired, unless the Assistant Administrator orders otherwise.

(c) If the petition does not request a hearing, the Assistant Administrator may issue a final decision and order based on the evidence and arguments submitted.

§ 386.14 Replies and request for hearing: Civil forfeiture proceedings.

(a) *Time for reply.* The respondent must reply within 15 days after a Claim Letter is served, or 30 days after a Notice of Investigation is received.

(b) *Contents of reply.* The reply must contain the following:

- (1) An admission or denial of each allegation of the claim or notice and a concise statement of facts constituting each defense;
- (2) If the respondent contests the claim or notice, a request for an oral hearing or notice of intent to submit evidence without an oral hearing must be contained in the reply. A request for a hearing must list all material facts believed to be in dispute. Failure to request a hearing within 15 days after the Claim Letter is served, or 30 days in the case of a Notice of Investigation, shall constitute a waiver of any right to a hearing;
- (3) A statement of whether the respondent wishes to negotiate the terms of payment or settlement of the amount claimed, or the terms and conditions of the order; and
- (4) Certification that the reply has been served in accordance with §386.31.

(c) *Submission of evidence.* If a notice of intent to submit evidence without oral hearing is filed, or if no hearing is requested under paragraph (b)(2) of this section, and the respondent contests the claim or the contents of the notice, all evidence must be served in written form no later than the 40th day following service of the Claim Letter or Notice of Investigation. Evidence must