

MISCELLANEOUS PROVISIONS

- 1978.112 Arbitration or other proceedings.
 1978.113 Judicial enforcement.
 1978.114 Statutory time periods.
 1978.115 Special circumstances; waiver of rules.

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 for employee protection from discrimination because the employee has engaged in protected activity pertaining to commercial motor vehicle safety and health matters.

(b) Procedures are established by this subpart pursuant to the statutory provision set forth above for the expeditious handling of complaints of discrimination made by employees, or persons acting on their behalf. These rules, together with those rules set forth at 29 CFR part 18, set forth the procedures for submission of complaints under section 405, investigations, issuance of findings and preliminary orders, objections thereto, litigation before administrative law judges, post-hearing administrative review, withdrawals and settlements, judicial review and enforcement, and deferral to other forums.

§ 1978.101 Definitions.

(a) *Act* means the Surface Transportation Assistance Act of 1982 (STAA) (49 U.S.C. 2301 *et seq.*).

(b) *Secretary* means Secretary of Labor or persons to whom authority under the Act has been delegated.

(c) *Assistant Secretary* means the Assistant Secretary of Labor for Occupational Safety and Health or the person

or persons to whom he or she delegates authority under the Act.

(d) *Employee* means (1) a driver of a commercial motor vehicle (including an independent contractor while in the course of personally operating a commercial motor vehicle); (2) a mechanic; (3) a freight handler; or (4) any individual other than an employer; who is employed by a commercial motor carrier and who in the course of his employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any State, or a political subdivision of a State who is acting within the course of such employment.

(e) *Commercial motor carrier* means a person who meets the definition of *motor carrier* found at 49 U.S.C. 10102(13) (Supp. 1987) and *motor private carrier* found at 49 U.S.C. 10102(16) (Supp. 1987).

(f) *OSHA* means the Occupational Safety and Health Administration.

(g) *Complainant* means the employee who filed a section 405 complaint or on whose behalf a complaint was filed.

(h) *Named person* means the person alleged to have violated section 405.

(i) *Person* means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives or any group of persons.

§ 1978.102 Filing of discrimination complaint.

(a) *Who may file.* An employee may file, or have filed by any person on the employee's behalf, a complaint alleging a violation of section 405.

(b) *Nature of filing.* No particular form of complaint is required.

(c) *Place of filing.* The complaint should be filed with the OSHA Area Director responsible for enforcement activities in the geographical area where the employee resides or was employed, but filing with any OSHA officer or employee is sufficient. Addresses and telephone numbers for these officials are set forth in local directories.

(d) *Time for filing.* (1) Section 405(c)(1) provides that an employee who believes that he has been discriminated against in violation of section 405 (a) or (b) “* * * may, within one hundred and eighty days after such alleged violation