

§ 386.12

49 CFR Ch. III (10-1-07 Edition)

Notice of Claim. The notice of violation will address the following issues, as appropriate:

- (1) The specific alleged violations.
 - (2) Any specific actions the Agency determines are appropriate to remedy the identified problems.
 - (3) The means by which the notified person can inform the Agency that it has received the notice of violation and either has addressed the alleged violation or does not agree with the Agency's assertions in the notice of violation.
 - (4) Any other relevant information.
- (c) *Civil penalty proceedings.* These proceedings are commenced by the issuance of a Notice of Claim.

(1) Each Notice of Claim must contain the following:

- (i) A statement setting forth the facts alleged.
- (ii) A statement of the provisions of law allegedly violated by the respondent.
- (iii) The proposed civil penalty and notice of the maximum amount authorized to be claimed under statute.
- (iv) The time, form, and manner whereby the respondent may pay, contest, or otherwise seek resolution of the claim.

(2) In addition to the information required by paragraph (c)(1) of this section, the Notice of Claim may contain such other matters as the Agency deems appropriate.

(3) In proceedings for collection of civil penalties for violations of the motor carrier safety regulations under the Motor Carrier Safety Act of 1984, the Agency may require the respondent to post a copy of the Notice of Claim in such place or places and for such duration as the Agency may determine appropriate to aid in the enforcement of the law and regulations.

[50 FR 40306, Oct. 2, 1985, as amended at 53 FR 2036, Jan. 26, 1988; 56 FR 10182, Mar. 11, 1991; 65 FR 7756, Feb. 16, 2000; 70 FR 28480, May 18, 2005]

§ 386.12 **Complaint.**

(a) *Complaint of substantial violation.* Any person may file a written complaint with the Assistant Administrator alleging that a substantial violation of any regulation issued under the Motor Carrier Safety Act of 1984 is

occurring or has occurred within the preceding 60 days. A substantial violation is one which could reasonably lead to, or has resulted in, serious personal injury or death. Each complaint must be signed by the complainant and must contain:

- (1) The name, address, and telephone number of the person who files it;
- (2) The name and address of the alleged violator and, with respect to each alleged violator, the specific provisions of the regulations that the complainant believes were violated; and
- (3) A concise but complete statement of the facts relied upon to substantiate each allegation, including the date of each alleged violation.

(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.

(c) Notwithstanding the provisions of section 552 of title 5, United States Code, the Assistant Administrator shall not disclose the identity of complainants unless it is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Assistant Administrator shall take every practical means within the Assistant Administrator's authority to assure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.

[50 FR 40306, Oct. 2, 1985, as amended at 70 FR 28481, May 18, 2005]