

**§ 1980.113**

**29 CFR Ch. XVII (7-1-23 Edition)**

issued by the Secretary upon his or her discretionary review) for which judicial review is available, 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.

(b) A final order is not subject to judicial review in any criminal or other civil proceeding.

(c) If a timely petition for review is filed, the record of a case, including the record of proceedings before the ALJ, will be transmitted by the ARB or the ALJ, as the case may be, to the appropriate court pursuant to the Federal Rules of Appellate Procedure and the local rules of such court.

[80 FR 11880, Mar. 5, 2015, as amended at 85 FR 30622, May 20, 2020]

**§ 1980.113 Judicial enforcement.**

Whenever any person has failed to comply with a preliminary order of reinstatement, or a final order, including one approving a settlement agreement, issued under the Act, the Secretary 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. Whenever any person has failed to comply with a preliminary order of reinstatement, or a final order, including one approving a settlement agreement, issued under the Act, a person on whose behalf the order was issued may file a civil action seeking enforcement of the order in the appropriate United States district court.

**§ 1980.114 District court jurisdiction over retaliation complaints.**

(a) If the Secretary 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. A party to an action brought under this

paragraph shall be entitled to trial by jury.

(b) A proceeding under paragraph (a) of this section shall be governed by the same legal burdens of proof specified in § 1980.109. An employee prevailing in any action under paragraph (a) of this section shall be entitled to all relief necessary to make the employee whole, including:

(1) Reinstatement with the same seniority status that the employee would have had, but for the retaliation;

(2) The amount of back pay, with interest;

(3) Compensation for any special damages sustained as a result of the retaliation; and

(4) Litigation costs, expert witness fees, and reasonable attorney fees.

(c) Within seven days after filing a complaint in federal court, a complainant must file with OSHA, the ALJ, or the ARB, depending on where the proceeding is pending, a copy of the file-stamped complaint. A copy of the complaint also must be served on the OSHA official who issued the findings and/or preliminary order, the Assistant Secretary, and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor.

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

In special circumstances not contemplated by the provisions of this part, or for good cause shown, the ALJ or the ARB on review may, upon application, after three days notice to all parties, 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**

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

- Sec.
- 1981.100 Purpose and scope.
- 1981.101 Definitions.
- 1981.102 Obligations and prohibited acts.
- 1981.103 Filing of discrimination complaint.
- 1981.104 Investigation.

## Occu. Safety and Health Admin., Labor

## § 1981.101

1981.105 Issuance of findings and preliminary orders.

### Subpart B—Litigation

1981.106 Objections to the findings and the preliminary order and request for a hearing.

1981.107 Hearings.

1981.108 Role of Federal agencies.

1981.109 Decision and orders of the administrative law judge.

1981.110 Decision and orders of the Administrative Review Board.

### Subpart C—Miscellaneous Provisions

1981.111 Withdrawal of complaints, objections, and findings; settlement.

1981.112 Judicial review.

1981.113 Judicial enforcement.

1981.114 Special circumstances; waiver of rules.

AUTHORITY: 49 U.S.C. 60129; Secretary's Order 1-2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012); Secretary's Order 01-2020, 85 FR 13186 (March 6, 2020).

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 find-

ings 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.

“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.

“Complainant” means the employee who filed a complaint under the Act or on whose behalf a complaint was filed.

“Employee” means an individual presently or formerly working for a person owning or operating a pipeline facility or a contractor or subcontractor of such a person, an individual applying to work for a person owning or operating a pipeline facility or a contractor or subcontractor of such a person, or an individual whose employment could be affected by a person owning or operating a pipeline facility or a contractor or subcontractor of such a person.

“Employer” means a person owning or operating a pipeline facility or a contractor or subcontractor of such a person.

“Gas pipeline facility” includes a pipeline, a right of way, a facility, a building, or equipment used in transporting gas or treating gas during its transportation.

“Hazardous liquid pipeline facility” includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid.

“Named person” means the person alleged to have violated the Act.

“OSHA” means the Occupational Safety and Health Administration of the United States Department of Labor.

“Person” means a corporation, company, association, firm, partnership, joint stock company, an individual, a State, a municipality, and a trustee, receiver, assignee, or personal representative of a person.