

(3) *Costs.* If such a final order is issued, the Secretary, at the request of the complainant, shall assess against the respondent a sum equal to the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred by the complainant, as determined by the Secretary, for, or in connection with, the bringing of the complaint upon which the final order was issued.

(4) *Dismissals.* If the Secretary determines that the party charged has not violated the law, an order shall be issued denying the complaint.

#### §24.7 Judicial review.

(a) Within 60 days after the issuance of a final order under §24.6, above, any person adversely affected or aggrieved by such order may file a petition for review of the order in the United States court of appeals for the circuit in which the violation with respect to which the order was issued allegedly occurred. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the Secretary's order.

(b) An order of the Secretary with respect to which review could have been obtained under paragraph (a) shall not be subject to judicial review in any criminal or other civil proceeding.

(c) *Certification of record for judicial review.* The record of a case, including the record of proceedings before the administrative law judge, shall be transmitted by the Secretary to the appropriate court pursuant to the rules of such court.

#### §24.8 Enforcement proceedings.

(a) Whenever a person has failed to comply with a final order issued by the Secretary of Labor under §24.6, above, the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this section, the district courts shall have jurisdiction to grant to all appropriate relief including, but not limited to, injunctive relief, compensatory and exemplary damages.

(b)(1) Any person on whose behalf a final order was issued by the Secretary of Labor under §24.6, above, may com-

mence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(2) The court, in issuing any final order under this section may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

(c) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28 of the U.S. Code.

#### §24.9 Exception.

This part shall have no application to any employee alleging activity prohibited by this part who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of a Federal statute listed in §24.1, above.

### PART 25—RULES FOR THE NOMINATION OF ARBITRATORS UNDER SECTION 11 OF EXECUTIVE ORDER 10988

Sec.

25.1 Purpose and scope.

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25.7 Fees; cost; expenses; decisions.

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AUTHORITY: Sec. 11, E.O. 10988, 3 CFR 1959-1963 Comp. p. 521.

SOURCE: 25 FR 9441, Sept. 13, 1966, unless otherwise noted.

#### §25.1 Purpose and scope.

These procedures govern the nomination of arbitrators by the Secretary to perform the advisory functions specified under section 11 of Executive Order 10988. Any arbitrators so nominated