

party to such action, be tried by the court with a jury.

(b) Within seven days after filing a complaint in federal court, a complainant must file with the Assistant Secretary, 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 Occupational Safety and Health, U.S. Department of Labor.

§ 1986.115 Special circumstances; waiver of rules.

In special circumstances not contemplated by the provisions of these rules, 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 such orders as justice or the administration of SPA requires.

PART 1987—PROCEDURES FOR HANDLING RETALIATION COMPLAINTS UNDER SECTION 402 OF THE FDA FOOD SAFETY MODERNIZATION ACT

Subpart A—Complaints, Investigations, Findings and Preliminary Orders

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AUTHORITY: 21 U.S.C. 399d; Secretary of Labor's Order No. 1-2012 (Jan. 18, 2012), 77 FR 3912 (Jan. 25, 2012); Secretary of Labor's Order No. 2-2012 (Oct. 19, 2012), 77 FR 69378 (Nov. 16, 2012).

SOURCE: 79 FR 8627, Feb. 13, 2014, unless otherwise noted.

Subpart A—Complaints, Investigations, Findings and Preliminary Orders

§ 1987.100 Purpose and scope.

(a) This part sets forth the procedures for, and interpretations of, section 402 of the FDA Food Safety Modernization Act (FSMA), Public Law 111-353, 124 Stat. 3885, which was signed into law on January 4, 2011. Section 402 of the FDA Food Safety Modernization Act amended the Federal Food, Drug, and Cosmetic Act (FD&C), 21 U.S.C. 301 *et seq.*, by adding new section 1012. *See* 21 U.S.C. 399d. Section 1012 of the FD&C provides protection for an employee from retaliation because the employee has engaged in protected activity pertaining to a violation or alleged violation of the FD&C, or any order, rule, regulation, standard, or ban under the FD&C.

(b) This part establishes procedures under section 1012 of the FD&C for the expeditious handling of retaliation complaints filed by employees, or by persons acting on their behalf. The rules in this part, together with those codified at 29 CFR part 18, set forth the procedures under section 1012 of the FD&C for submission of complaints, investigations, issuance of findings and preliminary orders, objections to findings and orders, litigation before administrative law judges, post-hearing administrative review, and withdrawals and settlements. In addition, the rules in this part provide the Secretary's interpretations on certain statutory issues.

§ 1987.101 Definitions.

As used in this part: