

§ 68.55

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shall be conducted in accordance with this section.

(3) The Chief Administrative Hearing Officer may make technical corrections to the Officer's order up to and including thirty (30) days subsequent to the issuance of that order.

(e) *Final agency order.* If the Chief Administrative Hearing Officer enters a final order that modifies or vacates the Administrative Law Judge's final order, and the Chief Administrative Hearing Officer's order is not referred to the Attorney General pursuant to § 68.55, the Chief Administrative Hearing Officer's order becomes the final agency order thirty (30) days subsequent to the date of the modification or vacation.

[Order No. 2203-99, 64 FR 7082, Feb. 12, 1999]

§ 68.55 Referral of cases arising under sections 274A or 274C to the Attorney General for review.

(a) *Referral of cases by direction of the Attorney General.* Within thirty (30) days of the entry of a final order by the Chief Administrative Hearing Officer modifying or vacating an Administrative Law Judge's final order, or within sixty (60) days of the entry of an Administrative Law Judge's final order, if the Chief Administrative Hearing Officer does not modify or vacate the Administrative Law Judge's final order, the Chief Administrative Hearing Officer shall promptly refer to the Attorney General for review any final order in cases arising under section 274A or 274C of the INA if the Attorney General so directs the Chief Administrative Hearing Officer. When a final order is referred to the Attorney General in accordance with this paragraph, the Chief Administrative Hearing Officer shall give the Administrative Law Judge and all parties a copy of the referral.

(b) *Request by Commissioner of Immigration and Naturalization for review by the Attorney General.* The Chief Administrative Hearing Officer shall promptly refer to the Attorney General for review any final order in cases arising under sections 274A or 274C of the INA at the request of the Commissioner of Immigration and Naturalization within thirty (30) days of the entry of a final order modifying or vacating the Administrative Law Judge's final order or

within sixty (60) days of the entry of an Administrative Law Judge's final order, if the Chief Administrative Hearing Officer does not modify or vacate the Administrative Law Judge's final order.

(1) The Immigration and Naturalization Service must first seek review of an Administrative Law Judge's final order by the Chief Administrative Hearing Officer, in accordance with § 68.54 before the Commissioner of Immigration and Naturalization may request that an Administrative Law Judge's final order be referred to the Attorney General for review.

(2) To request referral of a final order to the Attorney General, the Commissioner of Immigration and Naturalization must submit a written request to the Chief Administrative Hearing Officer and transmit copies of the request to all other parties to the case and to the Administrative Law Judge at the time the request is made. The written statement shall contain a succinct statement of the reasons the case should be reviewed by the Attorney General and the grounds for appeal.

(3) The Attorney General, in the exercise of the Attorney General's discretion, may accept the Commissioner's request for referral of the case for review by issuing a written notice of acceptance within sixty (60) days of the date of the request. Copies of such written notice shall be transmitted to all parties in the case and to the Chief Administrative Hearing Officer.

(c) *Review by the Attorney General.* When a final order of an Administrative Law Judge or the Chief Administrative Hearing Officer is referred to the Attorney General pursuant to paragraph (a) of this section, or a referral is accepted in accordance with paragraph (b)(3) of this section, the Attorney General shall review the final order pursuant to section 274A(e)(7) or 274C(d)(4) of the INA and 5 U.S.C. 557. No specific time limit is established for the Attorney General's review.

(1) All parties shall be given the opportunity to submit briefs or other written statements pursuant to a schedule established by the Chief Administrative Hearing Officer or the Attorney General.

(2) The Attorney General shall enter an order that adopts, modifies, vacates, or remands the final order under review. The Attorney General's order shall be stated in writing and shall be transmitted to all parties in the case and to the Chief Administrative Hearing Officer.

(3) If the Attorney General remands the case for further administrative proceedings, the Chief Administrative Hearing Officer or the Administrative Law Judge shall conduct further proceedings consistent with the Attorney General's order. Any subsequent final order of the Administrative Law Judge or the Chief Administrative Hearing Officer shall be subject to administrative review in accordance with § 68.54 and this section.

(d) *Final agency order.* (1) The Attorney General's order pursuant to paragraph (c) of this section (other than a remand as provided in paragraph (c)(3)) shall become the final agency order on the date of the Attorney General's order.

(2) If the Attorney General declines the Commissioner's request for referral of a case pursuant to paragraph (b) of this section, or does not issue a written notice of acceptance within sixty (60) days of the date of the Commissioner's request, then the final order of the Administrative Law Judge or the Chief Administrative Hearing Officer that was the subject of a referral pursuant to paragraph (b) shall become the final agency order on the day after that sixty (60) day period has expired.

[Order No. 2203-99, 64 FR 7082, Feb. 12, 1999]

§ 68.56 Judicial review of a final agency order in cases arising under section 274A or 274C.

A person or entity adversely affected by a final agency order may file, within forty-five (45) days after the date of the final agency order, a petition in the United States Court of Appeals for the appropriate circuit for review of the final agency order. Failure to request review by the Chief Administrative Hearing Officer of a final order by an Administrative Law Judge shall not prevent a party from seeking judicial review.

[Order No. 2203-99, 64 FR 7083, Feb. 12, 1999]

§ 68.57 Judicial review of the final agency order of an Administrative Law Judge in cases arising under section 274B.

Any person aggrieved by a final agency order issued under § 68.52(d) may, within sixty (60) days after entry of the order, seek review of the final agency order in the United States Court of Appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business. If a final agency order issued under § 68.52(d) is not appealed, the Special Counsel (or, if the Special Counsel fails to act, the person filing the charge, other than the Immigration and Naturalization Service officer) may file a petition in the United States District Court for the district in which the violation that is the subject of the final agency order is alleged to have occurred, or in which the respondent resides or transacts business, requesting that the order be enforced.

[Order No. 2203-99, 64 FR 7083, Feb. 12, 1999]

§ 68.58 Filing of the official record.

Upon timely receipt of notification that an appeal has been taken, a certified copy of the record will be filed promptly with the appropriate United States Court.

[Order No. 2203-99, 64 FR 7083, Feb. 12, 1999]

PART 69—NEW RESTRICTIONS ON LOBBYING

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