

§ 68.51

28 CFR Ch. I (7–1–10 Edition)

that copies have been served upon all parties, who shall have an opportunity to comment thereon. Copies shall be received not later than twenty (20) days after the close of the hearing except for good cause shown, and not less than ten (10) days prior to the date set for filing briefs. Exhibit numbers should be assigned by counsel or the party.

[54 FR 48596, Nov. 24, 1989. Redesignated by Order No. 1534-91, 56 FR 50053, Oct. 3, 1991]

§ 68.51 Restricted access.

On his/her own motion, or on the motion of any party, the Administrative Law Judge may direct that there be a restricted access portion of the record to contain any material in the record to which public access is restricted by law or by the terms of a protective order entered in the proceedings. This portion of the record shall be placed in a separate file and clearly marked to avoid improper disclosure and to identify it as a portion of the official record in the proceedings.

[54 FR 48596, Nov. 24, 1989. Redesignated by Order No. 1534-91, 56 FR 50053, Oct. 3, 1991]

§ 68.52 Final order of the Administrative Law Judge.

(a) *Proposed final order.* (1) Within twenty (20) days of filing of the transcript of the testimony, or within such additional time as the Administrative Law Judge may allow, the Administrative Law Judge may require the parties to file proposed findings of fact, conclusions of law, and orders, together with supporting briefs expressing the reasons for such proposals. Such proposals and briefs shall be served on all parties and shall refer to all portions of the record and to all authorities relied upon in support of each proposal.

(2) The Administrative Law Judge may, by order, require that when a proposed order is filed for the Administrative Law Judge's consideration, the filing party shall submit to the Administrative Law Judge a copy of the proposed order on a 3.5" microdisk.

(b) *Entry of final order.* Unless an extension of time is given by the Chief Administrative Hearing Officer for good cause, the Administrative Law Judge shall enter the final order within

sixty (60) days after receipt of the hearing transcript or of post-hearing briefs, proposed findings of fact, and conclusions of law, if any, by the Administrative Law Judge. The final order entered by the Administrative Law Judge shall be based upon the whole record. It shall be supported by reliable and probative evidence. The standard of proof shall be by a preponderance of the evidence.

(c) *Contents of final order with respect to unlawful employment of unauthorized aliens.* (1) If, upon the preponderance of the evidence, the Administrative Law Judge determines that a person or entity named in the complaint has violated section 274A(a)(1)(A) or (a)(2) of the INA, the final order shall require the person or entity to cease and desist from such violations and to pay a civil penalty in an amount of:

(i) Not less than \$275 and not more than \$2,200 for each unauthorized alien with respect to whom there was a violation of either such paragraph occurring before March 27, 2008; not less than \$375 and not more than \$3,200 for each unauthorized alien with respect to whom there was a violation of either such paragraph occurring on or after March 27, 2008;

(ii) In the case of a person or entity previously subject to one final order under this paragraph (c)(1), not less than \$2,200 and not more than \$5,500 for each unauthorized alien with respect to whom there was a violation of either such paragraph occurring before March 27, 2008, and not less than \$3,200 and not more than \$6,500 for each unauthorized alien with respect to whom there was a violation of either such paragraph occurring on or after March 27, 2008; or

(iii) In the case of a person or entity previously subject to more than one final order under paragraph (c)(1) of this section, not less than \$3,300 and not more than \$11,000 for each unauthorized alien with respect to whom there was a violation of each such paragraph occurring before March 27, 2008, and not less than \$4,300 and not more than \$16,000 for each unauthorized alien with respect to whom there was a violation of each such paragraph occurring on or after March 27, 2008.

(2) The final order may also require the respondent to participate in, and comply with the terms of, one of the