

which there is a significant danger that the alien would be returned to a country in which the alien would have a well-founded fear of persecution, provided that the alien has presented himself or herself without delay to an INS officer and shown good cause for his or her illegal entry or presence. Other acts of document fraud committed by such an alien may result in the issuance of a Notice of Intent to Fine and the imposition of civil money penalties.

§ 1270.3 Penalties.

(a) *Criminal penalties.* Nothing in section 274C of the Act shall be construed to diminish or qualify any of the penalties available for activities prohibited by this section but proscribed as well in title 18, United States Code.

(b) *Civil penalties.* A person or entity may face civil penalties for a violation of section 274C of the Act. Civil penalties may be imposed by the Service or by an administrative law judge for violations under section 274C of the Act. The Service may charge multiple violations of section 274C of the Act in a single Notice of Intent to Fine, and may impose separate penalties for each such unlawful act in a single proceeding or determination. However, in determining whether an offense is a first offense or a subsequent offense, a finding of more than one violation in the course of a single proceeding or determination will be counted as a single offense.

(1) A respondent found by the Service or an administrative law judge to have violated section 274C of the Act shall be subject to an order:

(i) To cease and desist from such behavior; and

(ii) To pay a civil penalty as follows:

(A) *First offense.* Not less than \$250 and not exceeding \$2,000 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act before September 29, 1999, and not less than \$275 and not exceeding \$2,200, for each fraudulent document or each proscribed activity on or after September 29, 1999.

(B) *Subsequent offenses.* Not less than \$2,000 and not more than \$5,000 for each fraudulent document or each pro-

scribed activity described in section 274C(a)(1) through (a)(4) of the Act before September 29, 1999, and not less than \$2,200 and not exceeding \$5,500, for each fraudulent document or each proscribed activity occurring on or after September 29, 1999.

(2) Where an order is issued to a respondent composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for a fee for employment (without reference to the practices of, and not under the common control of or common control with, another subdivision), each subdivision shall be considered a separate person or entity.

[57 FR 33866, July 31, 1992, as amended at 64 FR 47101, Aug. 30, 1999]

PART 1274a—CONTROL OF EMPLOYMENT OF ALIENS

Subpart A—Employer Requirements

Sec.

- 1274a.1 Employer requirements.
- 1274a.9 Enforcement procedures.
- 1274a.10 Penalties.
- 1274a.11 [Reserved]

Subpart B [Reserved]

AUTHORITY: 8 U.S.C. 1101, 1103, 1324a.

SOURCE: 52 FR 16221, May 1, 1987, unless otherwise noted. Duplicated from part 274a at 68 FR 9844, Feb. 28, 2003.

EDITORIAL NOTE: Nomenclature changes to part 1274a appear at 68 FR 9846, Feb. 28, 2003, and 68 FR 10359, Mar. 5, 2003.

Subpart A—Employer Requirements

§ 1274a.1 Employer requirements.

(a) *Applicable regulations.* The regulations of the Department of Homeland Security (DHS) relating to the implementation of the employment eligibility and verification provisions of section 274A of the Immigration and Nationality Act (Act) are contained in 8 CFR part 274a.

(b) *Adjudication of civil penalty proceedings.* The procedures for hearings before an administrative law judge relating to civil penalties sought by DHS

§ 1274a.9

under section 274A of the Act are contained in 28 CFR part 68. The regulations governing employment eligibility and verification in 8 CFR part 274a are applicable to hearings before an administrative law judge and, to the extent relevant, to cases before an immigration judge or the Board of Immigration Appeals.

[74 FR 2340, Jan. 15, 2009]

§ 1274a.9 Enforcement procedures.

(a)–(d) [Reserved]

(e) *Request for Hearing Before an Administrative Law Judge.* If a respondent contests the issuance of a Notice of Intent to Fine, the respondent must file with the DHS, within thirty days of the service of the Notice of Intent to Fine, a written request for a hearing before an Administrative Law Judge. Any written request for a hearing submitted in a foreign language must be accompanied by an English language translation. A request for a hearing is not deemed to be filed until received by the DHS office designated in the Notice of Intent to Fine. In computing the thirty day period prescribed by this section, the day of service of the Notice of Intent to Fine shall not be included. If the Notice of Intent to Fine was served by ordinary mail, five days shall be added to the prescribed thirty day period. In the request for a hearing, the respondent may, but is not required to, respond to each allegation listed in the Notice of Intent to Fine.

(f) *Failure to file a request for a hearing.* If the respondent does not file a request for a hearing in writing within thirty days of the date of service of a Notice of Intent to Fine (thirty-five days if served by ordinary mail), the final order issued by DHS shall not be subject to a hearing before an administrative law judge under 28 CFR part 68.

[52 FR 16221, May 1, 1987, as amended at 53 FR 8613, Mar. 16, 1988; 55 FR 25935, June 25, 1990; 56 FR 41786, Aug. 23, 1991; 61 FR 52236, Oct. 7, 1996; 74 FR 2340, Jan. 15, 2009]

§ 1274a.10 Penalties.

The regulations pertaining to the imposition of penalties for violations of the provisions of section 274A of the Immigration and Nationality Act are

8 CFR Ch. V (1–1–14 Edition)

contained in 8 CFR part 274a and 28 CFR part 68.

[73 FR 10136, Feb. 26, 2008]

§ 1274a.11 [Reserved]

Subpart B [Reserved]

PART 1280—IMPOSITION AND COLLECTION OF FINES

Sec.

1280.1 Review of fines and civil monetary penalties imposed by DHS.

AUTHORITY: 8 U.S.C. 1103, 1221, 1223, 1227, 1229, 1253, 1281, 1283, 1284, 1285, 1286, 1322, 1323, 1330; 66 Stat. 173, 195, 197, 201, 203, 212, 219, 221–223, 226, 227, 230; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

SOURCE: 22 FR 9807, Dec. 6, 1957, unless otherwise noted. Duplicated from part 280 at 68 FR 9844, Feb. 28, 2003.

EDITORIAL NOTE: Nomenclature changes to part 1280 appear at 68 FR 9846, Feb. 28, 2003.

§ 1280.1 Review of fines and civil monetary penalties imposed by DHS.

(a) *Applicable regulations.* The regulations of the Department of Homeland Security (DHS) relating to the imposition of certain fines and civil monetary penalties under provisions of the Immigration and Nationality Act, including sections 231(g), 234, 240B(d), 241(d) and (e), 243(c)(1), 251(d), 254(a), 255, 256, 257, 271(a), 272(a), 273(b), 274D, and 275(b), are contained in 8 CFR part 280.

(b) *Adjudication of civil monetary penalty proceedings.* The Board of Immigration Appeals (Board) has appellate authority to review DHS decisions involving fines and civil monetary penalties imposed under 8 CFR part 280, as provided under 8 CFR part 1003. The regulations in 8 CFR part 280 governing the imposition of certain fines and civil monetary penalties are applicable in such proceedings before the Board.

(c) *Civil monetary penalties under sections 274A, 274B, or 274C.* For regulations relating to civil monetary penalties imposed under sections 274A, 274B, or 274C of the Act, see 8 CFR parts 274a and 1274a and 28 CFR part 68.

[76 FR 74630, Dec. 1, 2011]