

*Paragraph 6005 Class E Airspace Areas
Extending Upward From 700 Feet or More
Above the Surface of the Earth*

* * * * *

AGL IN E5 Alexandria, IN [Remove]

* * * * *

AGL IN E5 Muncie, IN [Amended]

Delaware County Regional Airport, IN
(Lat. 40°14'33" N, long 085°23'45" W)
Ball Memorial Hospital Heliport, IN, Point In
Space
(Lat. 40°11'50" N, long 085°25'52" W)
That airspace extending upward from 700
feet above the surface within a 7.2-mile
radius of Delaware County Regional Airport;
and within a 6-mile radius of the Ball
Memorial Hospital Heliport point in space.

* * * * *

Issued in Fort Worth, Texas, on August 6,
2026.

Courtney E. Johns,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2026-16289 Filed 8-10-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF JUSTICE

28 CFR Part 68

[Docket No. EOIR-26-AA45; Dir. Order No.
08-2026]

RIN 1125-AA45

Adjudication of Civil Penalties Against International Marriage Brokers

AGENCY: Executive Office for
Immigration Review ("EOIR"),
Department of Justice.

ACTION: Interim final rule; request for
comments.

SUMMARY: This interim final rule ("IFR")
amends Department of Justice
("Department") regulations to specify
the procedures for adjudicating alleged
violations of the International Marriage
Broker Regulation Act of 2005
("IMBRA") by international marriage
brokers ("IMBs") doing business in the
United States that fail to provide
required information to persons
recruited for matchmaking services or
that improperly disclose prohibited
information. This IFR is necessary to
deter fraudulent marriages and the
exploitation of immigrants recruited by
IMBs.

DATES:

Effective date: This interim final rule
is effective September 10, 2026.

Comments due date: Electronic
comments must be submitted on or
before September 10, 2026. The
electronic Federal Docket Management
System will accept electronic comments

until 11:59 p.m. Eastern Time on that
date.

ADDRESSES: You may submit comments,
identified by RIN 1125-AA45 or EOIR
Docket No. EOIR-26-AA45, via the
Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the
website instructions for submitting
comments. Comments must be
submitted in English, or an English
translation must be provided.

Comments submitted in a manner
other than via <https://www.regulations.gov> will not be
considered comments on the IFR and
may not receive a response from EOIR.
EOIR is not accepting mailed comments
at this time.

If you cannot submit your comment
by using <https://www.regulations.gov>,
please contact Jamee E. Comans,
Assistant Director for Policy, Office of
Policy, Executive Office for Immigration
Review, by telephone at (703) 305-0289
(not a toll-free call) for alternate
instructions.

FOR FURTHER INFORMATION CONTACT:

Jamee E. Comans, Assistant Director,
Office of Policy, Executive Office for
Immigration Review, 5107 Leesburg
Pike, Suite 2500, Falls Church, VA
22041; telephone (703) 305-0289 (not a
toll free call).

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to
participate in this rulemaking by
submitting written data, views, or
arguments on all aspects of this IFR. The
Department also invites comments that
relate to the economic, environmental,
or federalism effects that might result
from this rule. To provide the most
assistance to the Department, comments
should reference a specific portion of
the IFR; explain the reason for any
recommended change; and include data,
information, or authority that supports
the recommended change.

All comments submitted for this
rulemaking should include the agency
name and reference RIN 1125-AA45 or
EOIR Docket No. EOIR-26-AA45.
Please note that all comments received
are considered part of the public record
and made available for public
inspection at <https://www.regulations.gov>. Such information
includes personally identifying
information (such as a person's name,
address, or any other data that might
personally identify that individual) that
the commenter voluntarily submits.

If you want to submit personally
identifying information as part of your
comment, but do not want it to be
posted online, you must include the

phrase "PERSONALLY IDENTIFYING
INFORMATION" in the first paragraph
of your comment and identify what
information you want redacted.

If you want to submit confidential
business information as part of your
comment, but do not want it to be
posted online, you must include the
phrase "CONFIDENTIAL BUSINESS
INFORMATION" in the first paragraph
of your comment and precisely and
prominently identify the confidential
business information of which you seek
redaction. If a comment has so much
confidential business information that it
cannot be effectively redacted, all or
part of that comment may not be posted
on <https://www.regulations.gov>.

Personally identifying information
and confidential business information
provided as set forth above will be
placed in the agency's public docket file
but not posted online. The Department
may withhold from public viewing
information provided in comments that
it determines may impact the privacy of
an individual or is offensive. For
additional information, please read the
Privacy Act notice that is available via
the link in the footer of <https://www.regulations.gov>. To inspect the
agency's public docket file in person,
you must make an appointment with the
agency. Please see the **FOR FURTHER
INFORMATION CONTACT** paragraph above
for agency contact information.

II. Legal Authority

The Department is issuing this IFR
pursuant to section 103(g) of the
Immigration and Nationality Act ("INA"
or "Act"), 8 U.S.C. 1103(g), as amended
by the Homeland Security Act of 2002
("HSA"), Public Law 107-296, 116 Stat.
2135 (as amended). Under the HSA, the
Attorney General retains the authority to
"establish such regulations, . . . issue
such instructions, review such
administrative determinations in
immigration proceedings, delegate such
authority, and perform such other acts
as the Attorney General determines to
be necessary for carrying out" the
Attorney General's authorities under the
INA. HSA 1102, 116 Stat. at 2273-74;
INA 103(g)(2), 8 U.S.C. 1103(g)(2). In
Attorney General Order Number 7081-
2026 and Attorney General Order
Number 6918-2026, the Attorney
General has exercised authority under
28 U.S.C. 509 and 510 to delegate
authority to issue regulations related to
procedures for imposing penalties under
8 U.S.C. 1375a(d)(5)(A) and to amend
the regulations at 28 CFR part 68,
respectively, to EOIR's Director.

III. Background

A. Regulation of International Marriage Brokers Before IMBRA

In 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Public Law 104–208, Div. C., Sept. 30, 1996, 110 Stat. 3009, 3009–546. Section 652 of IIRIRA, previously codified at 8 U.S.C. 1375, addressed the “mail-order bride business.”¹ Congress found that, in “many . . . cases, anecdotal evidence suggests that mail-order brides find themselves in abusive relationships” in the United States and that there was “evidence to suggest that a substantial number” of marriages arranged by IMBs were fraudulent. IIRIRA 652(a)(3), (a)(5).

Section 652(b)(1) of IIRIRA required all international matchmaking organizations conducting business in the United States to provide certain information to each potential recruit² at the time of recruitment and in the recruit’s native language. The same provision required the information provided to detail certain immigration and naturalization information and explain the immigration benefits available to individual spouses and fiancé(e)s of U.S. citizens or lawful permanent residents (“LPRs”) and the penalties for marriage fraud. IIRIRA 652(b)(1). Section 652(b)(2) of IIRIRA established a civil money penalty of up to \$20,000 for international matchmaking organizations that failed to comply with the information dissemination requirements.

B. Enactment of IMBRA

Despite IIRIRA’s provisions related to international matchmaking organizations, following a 2004 Senate hearing on the IMB industry,³ Congress decided further regulation was necessary. At the time, an estimated 8,000 to 12,000 individuals in the United States found foreign spouses through IMBs each year.⁴ In 2006, IMBRA repealed the “mail-order bride”

provisions at section 652 of IIRIRA and implemented new provisions regulating IMBs. See Violence Against Women and Department of Justice Reauthorization Act of 2005 (“VAWA Reauthorization Act of 2005”), Public Law 109–162, Title VIII, Subtitle D, Jan. 5, 2006, 119 Stat. 2960, 3066–77.

C. IMBRA Requirements

1. Obligations of the Government

Unlike the obligations prescribed by the “mail-order bride” provisions at section 652 of IIRIRA, IMBRA requires the Department of Homeland Security (“DHS”) and the Department of State (“DOS”) to disseminate an information pamphlet to applicants for a K nonimmigrant visa under section 101(a)(15)(K) of the INA, 8 U.S.C. 1101(a)(15)(K). 8 U.S.C. 1375a(a)(1). The pamphlet must contain information about the visa application process and the marriage-based immigration process; the illegality of domestic violence, sexual assault, and child abuse; the availability of services for victims of domestic violence and sexual assault; the legal rights of immigrant victims of abuse and other crimes in immigration, criminal justice, family law, and other matters; the obligations of parents to provide child support; marriage fraud and related penalties; the potential use of the K nonimmigrant visa process by individuals with a history of abuse; and the requirement for IMBs to provide foreign national clients with background information on U.S. clients, with a notification that such information may be incomplete or inaccurate.⁵ 8 U.S.C. 1375a(a)(2)(A)–(H).

IMBRA requires the information pamphlet to be developed by the Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State (and with nongovernmental organizations with expertise on the legal rights of immigrant victims of battery, extreme cruelty, sexual assault, and other crimes). 8 U.S.C. 1375a(a)(1).⁶ Consular

officers are required to provide this pamphlet to foreign fiancé(e)s and provide an oral summary, in the alien’s primary language, of that pamphlet at the time of visa or adjustment interviews.⁷ 8 U.S.C. 1375a(b)(1)(B).

2. Definition of “International Marriage Brokers”

IMBRA defines “international marriage broker” as an individual or other legal entity (including a corporation, partnership, or business, whether or not organized under any law of the United States) that charges fees for providing dating, matrimonial, or matchmaking services, or social referrals between U.S. citizens, nationals, or LPRs and foreign national clients by providing personal contact information or otherwise facilitating communication between individuals. 8 U.S.C. 1375a(e)(4)(A). This definition includes both IMBs that are based in the United States and those that are based abroad. *Id.* However, the definition of an IMB excludes traditional nonprofit matchmaking organizations of a cultural or religious nature and dating services that do not match U.S. citizens or U.S. residents with aliens as their principal business and that charge all participants comparable rates and offer comparable services regardless of a client’s sex or country of citizenship. 8 U.S.C. 1375a(e)(4)(B).

3. Other Protections

IMBRA also creates additional safeguards. For example, 8 U.S.C. 1375a(d)(1) prohibits IMBs from providing any person or entity with the contact information for, a photograph of, or general information about the background or interests of anyone under the age of 18. A related provision, section 832(a)(1)(D) of IMBRA, codified at section 214(d)(2) of the INA, 8 U.S.C. 1184(d)(2), specifies that DHS will not generally approve a petition for a K visa before verifying that the petitioner has not, prior to the pending petition, petitioned on behalf of two or more applying aliens and, if the petitioner has had such a petition previously

¹ Because the citations to the relevant provisions in IIRIRA (8 U.S.C. 1375) and IMBRA (8 U.S.C. 1375a) are similar, this document, for clarity, refers to the IIRIRA provisions by their citations therein, rather than as previously codified in the United States Code.

² IIRIRA defined “recruit” as a “noncitizen, nonresident person, recruited by the international matchmaking organization for the purpose of providing dating, matrimonial, or social referral services to [U.S.] citizens or aliens lawfully admitted for permanent residence.” IIRIRA 652(e)(2).

³ *Human Trafficking: Mail Order Bride Abuses: Hearing Before the Subcomm. on East Asian and Pacific Affairs of the S. Comm. on Foreign Relations*, 108th Cong. 695 (2004).

⁴ See H.R. 3657, 109th Cong., sec. 1, (b)(1) (2005) (International Marriage Broker Regulation Act of 2005, as introduced).

⁵ Under IMBRA, “foreign national client” is defined as “a person who is not a United States citizen or national or an alien lawfully admitted to the United States for permanent residence and who utilizes the services of an international marriage broker. Such term includes an alien residing in the United States who is in the United States as a result of utilizing the services of an international marriage broker and any alien recruited by an international marriage broker or representative of such broker.” 8 U.S.C. 1375a(e)(3).

⁶ See DHS, *Information on the Legal Rights Available to Immigrant Victims of Domestic Violence in the United States and Facts about Immigrating on a Marriage-Based Visa* (Jan. 7, 2011), <https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Battered%20Spouse%2C%20Children%20%26%20Parents/IMBRA%20Pamphlet%20Final%2001-07-2011%20for%20>

[Web%20Posting.pdf](https://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Battered%20Spouse%2C%20Children%20%26%20Parents/IMBRA%20Pamphlet%20Final%2001-07-2011%20for%20) [https://perma.cc/D3SE-NQQ5]; see also Posting of Pamphlet Provided for in the International Marriage Broker Regulation Act, 77 FR 74546 (Dec. 14, 2012); Domestic Violence Guidance Pamphlet for K Nonimmigrants, 73 FR 42586 (July 22, 2008).

⁷ The Secretary of State is allowed but not required to translate the pamphlet into other languages that are not listed in 8 U.S.C. 1375a(a)(4)(A) or required to be translated under 8 U.S.C. 1375a(a)(4)(B). See 8 U.S.C. 1375a(a)(4)(A)–(B). Separately, the consular officer must provide a copy of the pamphlet “in English or another appropriate language and provide an oral summary, in the primary language of the visa applicant, of that pamphlet.” 8 U.S.C. 1375a(b)(1)(B).

approved, that two years have elapsed since the filing of such previously approved petition. Relatedly, section 214(r)(4) of the INA, 8 U.S.C. 1184(r)(4), requires the creation of a government database to record multiple petitions filed by the same U.S. petitioner.

IMBRA also ensures that, as part of the K nonimmigrant visa process, DOS will provide to foreign fiancé(e)s any criminal and other relevant background information obtained through DHS's background check of the visa petitioner. 8 U.S.C. 1375a(b)(1)(A). Additionally, before an IMB may provide contact information of any foreign national client to a U.S. client or representative, an IMB must: (1) perform a search of the National Sex Offender Public website for information regarding the U.S. client; (2) obtain from the U.S. client information about any criminal history (restraining or protective orders, arrests or convictions for violent crimes, child abuse or neglect, prostitution, or substance abuse), marital history, and related information; (3) provide this information to the foreign national client in the client's primary language; (4) provide to the foreign national client the DHS IMBRA pamphlet about the legal rights and resources available in the United States to immigrant victims of domestic violence and other crimes; and (5) obtain the foreign national client's written consent to release his or her information to the U.S. client. 8 U.S.C. 1375a(d)(3).

D. Penalties for Failure To Comply With IMBRA

IMBs that fail to comply with IMBRA's requirements in 8 U.S.C. 1375a(d)(1)–(4) are subject to civil penalties.⁸ 8 U.S.C. 1375a(d)(5)(A). IMBRA authorizes a range of civil penalties, from a minimum of \$5,000 to a maximum of \$25,000, 8 U.S.C. 1375a(d)(5)(A)(i), which is a higher maximum penalty than the maximum \$20,000 penalty previously prescribed by section 652(b)(2) of IIRIRA. These penalties are in addition to those available under any other existing laws. 8 U.S.C. 1375a(d)(5)(C).

Under 8 U.S.C. 1375a(d)(5)(A)(ii), a civil penalty may be imposed either by

a Federal judge, or by the Attorney General after notice and an opportunity for an agency hearing on the record in accordance with the Administrative Procedure Act ("APA"), 5 U.S.C. 551–59.⁹ In other words, the Attorney General may impose a civil penalty after the IMB has had an opportunity for a formal hearing on the record before an Administrative Law Judge ("ALJ"). However, IMBRA does not contain specific procedures, beyond the general requirements of the APA, for the conduct of such hearings. *See generally* 8 U.S.C. 1375a.

IV. Provisions of the IFR

This IFR implements procedures for the adjudication of IMBRA civil penalty cases through hearings conducted by ALJs in EOIR's Office of the Chief Administrative Hearing Officer ("OCAHO").¹⁰ OCAHO's ALJs currently adjudicate immigration-related civil penalty cases pertaining to unlawful employment, employment eligibility verification, immigration-related employment discrimination, and document fraud, under sections 274A, 274B, and 274C of the INA, 8 U.S.C. 1324a, 1324b, and 1324c, respectively. OCAHO ALJs adjudicate these cases according to APA statutory guidelines and OCAHO's rules of practice and procedure for administrative hearings before its ALJs as set forth at 28 CFR part 68. This IFR applies OCAHO's existing hearing procedures for employment- and document fraud-related proceedings in 28 CFR part 68 to IMBRA cases.

Because IMBRA requires APA-compliant notice and an opportunity for a hearing prior to the imposition of a civil penalty and because OCAHO ALJs have significant experience conducting proceedings that are consistent with the APA's requirements, authorizing OCAHO ALJs to adjudicate IMBRA cases under existing OCAHO

procedures is the most logical way to implement IMBRA. *See* 8 U.S.C. 1375a(d)(5)(A)(ii). The existing processes for OCAHO ALJ hearings were explicitly designed to comply with the APA. *See* 28 CFR 68.28(a); *see also* Rules of Practice and Procedure for Administrative Hearings Before Administrative Law Judges in Cases Involving Allegations of Unlawful Employment of Aliens and Unfair Immigration-related Employment Practices, 56 FR 50049, 50051 (Oct. 3, 1991) (explaining that, when making revisions, 28 CFR 68.28 was "changed to emphasize the importance of the [APA]"). For example, existing OCAHO regulations explicitly state that, in any proceeding under 28 CFR part 68, "the [ALJ] shall have all appropriate powers necessary to conduct fair and impartial hearings," including conducting "formal hearings in accordance with the provisions of the [APA]" and taking "any action authorized by the [APA]." 28 CFR 68.28(a). Following OCAHO's existing procedures will ensure that respondents are afforded notice and an opportunity for a hearing as required by statute. 8 U.S.C. 1375a(d)(5)(A)(ii); *see also* 5 U.S.C. 551–59.

In addition, applying OCAHO's existing hearing procedures to IMBRA cases will allow the Department to capitalize on OCAHO's extensive institutional experience administering APA-compliant adjudicatory proceedings in immigration-related civil penalty cases. These procedures have the benefit of having been tested for more than 30 years. *Cf.* 56 FR 50050 (explaining, in issuing revisions to 28 CFR 68, that the Department was "amend[ing] several sections which have proven particularly troublesome or add[ing] new sections to increase administrative efficiency"). Further, authorizing OCAHO ALJs to adjudicate IMBRA cases is consistent with the statutory authorization for imposition of civil penalties by the Attorney General, since the OCAHO ALJs who are imposing the penalties are acting pursuant to the authority of the Attorney General. 8 U.S.C. 1375a(d)(5)(A)(ii). Accordingly, this IFR makes OCAHO's general procedures applicable to IMBRA cases, *see* 28 CFR 68.1, while also implementing specific changes to certain procedures to better suit the adjudication of IMBRA cases.¹¹

⁸ For civil enforcement cases, the Department will rely generally on referrals from DHS or DOS or upon information provided from other sources, since the Department has no direct involvement in the immigration visa or adjustment matters that are subject to IMBRA's requirements. Additionally, IMBs that fail to comply with IMBRA's requirements set forth in 8 U.S.C. 1375a(d)(1)–(4) may also be subject to criminal penalties. 8 U.S.C. 1375a(d)(5)(B). The Department may prosecute criminal violations of IMBRA, as it does for criminal violations generally, based on referrals from another Federal agency or upon information provided from other sources.

⁹ While the statute tasks the Attorney General with enforcement of IMBRA's provisions, it also directs the Attorney General to consult with the Department's Office on Violence Against Women to develop policies and education to promote enforcement of IMBRA. 8 U.S.C. 1375a(d)(6)(B).

¹⁰ The Department previously announced, in October 2009, that OCAHO would hear cases arising under IMBRA. *See* EOIR Updates Fact Sheet Discussing Office of the Chief Administrative Hearing Officer, 40 Interpreter Releases 2585 n.13 (Oct. 19, 2009) ("[IMBRA] requires [IMBs] to disseminate certain information to their recruits and clients regarding the legal rights of and resources available to prospective immigrant spouses to protect them from possible human trafficking and domestic violence. When the OCAHO begins to receive cases regarding international marriage brokers who are charged with violating this requirement, OCAHO ALJs will adjudicate those cases."). This IFR provides the procedures for OCAHO to do so.

¹¹ Procedures for cases arising under sections 274A, 274B, and 274C of the INA, 8 U.S.C. 1324a, 1324b, and 1324c, remain unchanged by this IFR. Nevertheless, the regulatory amendments involve non-substantive changes to the existing regulations governing section 274A and 274C cases. These non-substantive changes facilitate incorporation of IMBRA cases into the existing regulations, such as

Under this rule, in an IMBRA case, the administrative adjudication process will begin when the IMBRA enforcement official¹² files a complaint pursuant to 8 U.S.C. 1375a(d) with OCAHO. 8 U.S.C. 1375a(d)(6)(A) (“The Attorney General shall be responsible for the enforcement of the provisions of this section, including the prosecution of civil and criminal penalties provided for by this section.”). Proceedings before an OCAHO ALJ would commence when OCAHO serves that complaint upon the respondent as provided in 28 CFR 68.3. This IFR specifies the information that a complaint filed in an IMBRA case must contain and requires such complaints to be signed by the IMBRA enforcement official. 28 CFR 68.7(b)–(c). Further, the IFR outlines where service of the complaint and notice of hearing may be made in IMBRA cases, which satisfies IMBRA’s notice requirements. 28 CFR 68.3(d); *see also* 8 U.S.C. 1375a(d)(5)(A)(ii). Additionally, there is no requirement to affirmatively request a hearing in an IMBRA case,¹³ *see* 28 CFR 68.7(c), and when scheduling a hearing in an IMBRA case, “due regard will be given to the convenience of the parties and the witnesses in selecting a place for a hearing within the United States,” 28 CFR 68.5(b). If a respondent fails to respond to the complaint, the

accounting for slightly different timelines for IMBRA cases. For example, in 28 CFR 68.55(a) and (b) relating to Attorney General review, the IFR replaces the “sixty (60) days of the entry of an ALJ’s final order” timing language with “thirty (30) days after the deadline for review under § 68.54(d)(1).” This change does not affect the 60-day referral timeframe in 68.55(a)–(b) for section 274A or 274C cases, because 30 days subsequent to the 30-day timeframe in 28 CFR 68.54(d)(1) continues to equal a total of 60 days, while concurrently providing an extended timeframe for IMBRA cases, which are not subject to such statutorily established timeframes.

¹² This IFR does not designate an IMBRA enforcement official. OCAHO, an adjudicatory body, will not serve as the investigative or prosecutorial authority in these matters, as doing so would violate the basic separation-of-function principles of administrative law. 5 U.S.C. 554(d); *see also* Aliens and Nationality; Homeland Security; Reorganization of Regulations, 68 FR 9824 (Feb. 28, 2003) (describing how the administrative structure that was established through the creation of EOIR separated EOIR’s administrative adjudication functions from the enforcement and service functions of DHS’s predecessor, the Immigration and Naturalization Service). Instead, IMBRA vests the enforcement authority in the Attorney General, and the Attorney General will separately designate the specific official or office responsible for initiating and prosecuting IMBRA cases. *See* 8 U.S.C. 1375a(d)(6)(A). Accordingly, this IFR uses the term “IMBRA enforcement official” to mean the specific official or office that will be designated by the Attorney General to be responsible for initiating and prosecuting IMBRA cases.

¹³ The existing requirement to request a hearing in cases under sections 274A and 274C of the INA, 8 U.S.C. 1324a and 1324c, derives from the INA. *See* INA 274A(e)(3)(A), 8 U.S.C. 1324a(e)(3)(A); INA 274C(d)(2)(A), 8 U.S.C. 1324c(d)(2)(A).

ALJ may deem such failure to be a waiver of the right to a hearing and acceptance of the civil penalty that the IMBRA enforcement official sought to impose in the complaint. *See* 28 CFR 68.9(b) (“Failure of the respondent to file an answer within the time provided may be deemed to constitute a waiver of his or her right to appear and contest the allegations of the complaint.”).

Once an IMBRA case commences, OCAHO’s general procedures apply, *see* 28 CFR 68 *et seq.*, except that this IFR alters certain procedural time limits in IMBRA cases. For example, subsequent to the initial 30-day period to file a responsive pleading in proceedings before OCAHO, the IFR provides the respondent in an IMBRA case with an additional 30 days to file a responsive pleading, thus amounting to a 60-day timeframe to file a responsive pleading. *See* 28 CFR 68.9(a). Similarly, this IFR provides a respondent in an IMBRA case with 20 days—compared to the 10 days provided in other proceedings—to respond after a written motion is served. *See* 28 CFR 68.11(b). Because the IMBRA statute does not mandate certain time requirements for these responsive filings, and because IMBs may have their principal operations located abroad, the Department believes that it is appropriate to provide longer periods of time for IMBs covered by IMBRA.

This IFR also reflects the statutory language establishing a civil money penalty range for IMBRA violations. *See* 28 CFR 68.52(f); *accord* 8 U.S.C. 1375a(d)(5)(A)(i). The IFR states that if an ALJ determines by a preponderance of the evidence that the respondent named in the complaint violated or attempted to violate IMBRA’s requirements, the final order “will require the respondent or respondents to pay a civil money penalty in an amount of not less than \$5,000 and not more than \$25,000 for each violation.”¹⁴ 28 CFR 68.52(f).

Further, the IFR clarifies when an ALJ’s order in an IMBRA case becomes the final agency order. 28 CFR 68.52(h) (explaining that an ALJ’s final order in an IMBRA case becomes the final agency order 60 days after entry unless the Chief Administrative Hearing Officer modifies, vacates, or remands the final order or the final order is referred to the Attorney General).

Once an ALJ has issued a final order in an IMBRA case, the IFR provides specific procedures for administrative review of such orders, including review

to correct clerical or typographical errors and review of interlocutory orders. *See* 28 CFR 68.52(g) (correction of clerical and typographical errors), 68.53(a), (c) (review of interlocutory orders in IMBRA cases). Final orders in IMBRA cases will be subject to review by the Chief Administrative Hearing Officer pursuant to the specific time limits and procedural requirements outlined in 28 CFR 68.54. The Department notes that the time period during which a party may request review by the Chief Administrative Hearing Officer, the deadline to submit briefs, and the amount of time afforded to the Chief Administrative Hearing Officer to enter an order are longer than in cases arising under sections 274A and 274C of the INA, 8 U.S.C. 1324a and 1324c, because IMBRA cases are not subject to the same statutory timeframes as those cases. Accordingly, the Department is allowing additional time for the Chief Administrative Hearing Officer to review decisions by an ALJ in IMBRA cases. In addition to review by the Chief Administrative Hearing Officer, IMBRA cases are also subject to referral to the Attorney General upon the Attorney General’s request¹⁵ and may be subject to Attorney General review upon request by the IMBRA enforcement official. 28 CFR 68.55(a)–(b), (d)(2).

Finally, this IFR makes several changes to update the regulatory text to include IMBRA cases in relevant existing procedures. Procedurally, the IFR clarifies that a government attorney filing a complaint in an IMBRA case is not required to file a notice of appearance. 28 CFR 68.33(f). This IFR also adds definitions of the terms “IMB”, “IMBRA case”, and “IMBRA enforcement official” to OCAHO’s regulations. 28 CFR 68.2. Additionally, to account for IMBRA cases, this IFR revises the current definitions of “Complainant”, “Final agency order”, and “Issued”. *Id.* This IFR also makes minor, non-substantive changes to the regulations for clarity, such as changing some instances of “shall” to “will” or “must” and adding the term “final” before “order” where relevant.

V. Regulatory Requirements

A. Administrative Procedure Act

Under the APA, agencies must generally provide notice of a proposed rulemaking in the **Federal Register** and,

¹⁴ The IFR also clarifies that the amount of the civil money penalties “are subject to adjustment for inflation as provided in 28 CFR 85.5.” 28 CFR 68.52(f).

¹⁵ This Attorney General review also satisfies the concerns raised in the Supreme Court’s decision in *United States v. Arthrex, Inc.*, 594 U.S. 1 (2021). *See also* Office of the Chief Administrative Hearing Officer, Review Procedures, 88 FR 70586 (Oct. 12, 2023) (IFR addressing *Arthrex* in 274B cases).

after such notice, “give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments.” 5 U.S.C. 553(b)–(c). However, the APA provides exceptions to this requirement, as explained in more detail below. Consistent with the APA and for the reasons explained below, this IFR is exempt from notice-and-comment procedures because: (1) it is a rule of agency procedure and practice, *id.* 553(b)(A), and (2) it involves a foreign affairs function of the United States, *id.* 553(a)(1). At the same time, the Department seeks and welcomes post-promulgation comments on this IFR.

1. Rule of Agency Organization, Procedure, or Practice

As an initial matter, this IFR is exempt from notice-and-comment procedures because it is a rule of agency procedure and practice. 5 U.S.C. 553(b)(A). The purpose of the “rules of agency organization, procedure, or practice” exception is “to ensure that agencies retain latitude in organizing their internal operations.” *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980). However, this exception does not apply in matters where “agency action trenches on substantial private rights and interests.” *Id.* at 708. “[T]he critical feature of a rule that satisfies the . . . procedural exception is that it covers agency actions that do not themselves alter the rights or interests of parties, although it may alter the manner in which the parties present themselves or their viewpoints to the agency.” *AFL–CIO v. NLRB*, 57 F.4th 1023, 1034 (D.C. Cir. 2023) (quoting *James V. Hurson Assocs., Inc. v. Glickman*, 229 F.3d 277, 280 (D.C. Cir. 2000) (cleaned up)).

As discussed in Section IV of this preamble, the IMBRA statute provides the substantive bases for violations of the law, while this IFR merely applies OCAHO’s existing hearing procedures to adjudicating such cases. This IFR is also consistent with prior OCAHO procedural rulemakings pertaining solely to agency procedures and practices regarding the processing of cases before OCAHO. *See, e.g.*, 56 FR 50052; Rules of Practice and Procedure for Administrative Hearings Before Administrative Law Judges in Cases Involving Allegations of Unlawful Employment of Aliens, Unfair Immigration-Related Employment Practices, and Document Fraud, 64 FR 7066, 7072 (Feb. 12, 1999).

2. Foreign Affairs

Additionally, this IFR is excepted from the APA’s notice-and-comment requirements because it involves a

“foreign affairs function of the United States.” 5 U.S.C. 553(a)(1). Notably, the Secretary of State has determined “that all efforts, conducted by any agency of the federal government, to control the status, entry, and exit of people, and the transfer of goods, services, data, technology, and other items across the borders of the United States, constitute a foreign affairs function of the United States under the Administrative Procedure Act.” Determination: Foreign Affairs Functions of the United States, 90 FR 12200 (Mar. 14, 2025). The Department agrees with and adopts the Secretary of State’s determination as it relates to IMBRA violations, and as such, finds that the Department’s efforts through this IFR constitute a foreign affairs function of the United States.

By their nature, IMBRA cases relate to the “status, entry, and exit” of aliens from the United States under the Secretary of State’s determination. 90 FR 12200. Moreover, most IMBs are located outside the United States, and IMB-related issues covered by IMBRA often, if not exclusively, arise prior to an alien’s arrival in the United States. Therefore, because this IFR provides procedures for the adjudication of IMBRA violations, it implicates the United States’ foreign affairs with the countries of origin of IMBs that violate IMBRA, and foreign nationals recruited by IMBs for matchmaking services. *See E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 775–76 (9th Cir. 2018) (holding that the foreign affairs exception applies in the immigration context when “ordinary application of ‘the public rulemaking provisions [will] provoke definitely undesirable international consequences[.]’”).

This IFR is intended to specify the procedures for adjudicating violations of an important statute aimed at reducing exploitation of aliens and marriage fraud, both of which undermine the United States’ ability to effectively manage the alien population and reduce unlawful immigration. Implementing these procedures will, in turn, disincentivize efforts to bring aliens unlawfully to the United States through fraudulent marriages.

Consequently, as this IFR clearly and directly involves a foreign affairs function of the United States and following notice-and-comment requirements would result in undesirable international consequences, this IFR is exempt from these rulemaking procedures. *See* 5 U.S.C. 553(a)(1); *see also E. Bay Sanctuary Covenant*, 932 F.3d at 775–76.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (“RFA”), a regulatory flexibility analysis is not required when a rule is exempt from notice-and-comment rulemaking under 5 U.S.C. 553(b) or other law. 5 U.S.C. 603(a), 604(a). Because this IFR involves a foreign affairs function of the United States, *id.* 553(a)(1), and is a rule of agency procedure and practice, *id.* 553(b)(A), it is exempt from notice-and-comment rulemaking, and no RFA analysis is required for this rule.

C. Unfunded Mandates Reform Act of 1995

This IFR will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (adjusted annually for inflation), and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, codified at 2 U.S.C. 1501 *et seq.*

D. Congressional Review Act

This IFR is not a major rule as defined by section 804 of the Congressional Review Act, 5 U.S.C. 804. This IFR will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic and export markets.

E. Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)

The Department has determined that this rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and, therefore, it has not been reviewed by the Office of Management and Budget. Nevertheless, the Department certifies that this regulation has been drafted in accordance with the principles of Executive Orders 12866 and 13563. Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

The Department has determined that the benefits of this IFR justify the costs.

Implementation of this IFR will incur both monetary (e.g., additional staff resources) and non-monetary (e.g., additional work for existing staff resources) costs to the Department associated with adjudicating claims of IMBRA violations. Such costs are justified by the significant benefits of deterring future infractions, as well as protecting against fraudulent marriages and exploitation of foreign nationals who are recruited by IMBs. Congress clearly recognized that any costs associated with the implementation of the procedures set forth in this IFR are outweighed by the benefits, as evidenced by Congress's explicit authorization for the Attorney General to impose civil penalties for IMBRA violations "after notice and an opportunity for an agency hearing on the record." 8 U.S.C. 1375a(d)(5)(A)(ii). Additionally, this IFR will not impose any cost on the public. Rather, this IFR only implements the imposition of statutory penalties on persons for violations, or attempted violations, of 8 U.S.C. 1375a(d)(1)–(4), provisions with which affected parties are already obligated to comply. Therefore, the Department has assessed the costs and benefits of this IFR and believes that the regulatory approach selected maximizes net benefits.

F. Executive Order 13132 (Federalism)

This IFR will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department has determined that this IFR does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

G. Executive Order 12988 (Civil Justice Reform)

This IFR meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

H. Paperwork Reduction Act of 1995

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521, and its implementing regulations, 5 CFR part 1320, do not apply to this IFR because the Department has not imposed new or revised recordkeeping or reporting requirements.

I. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

This IFR is a "regulation[]" issued with respect to a[n] . . . immigration-related

function of the United States" and is therefore exempt from the requirements of Executive Order 14192 under section 5(a) of that Order.

J. Executive Order 14219 (Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative)

This IFR is "an[] action related to a[n] . . . immigration-related function of the United States" and is therefore exempt from the requirements of Executive Order 14219 under section 7(a) of that Order.

K. Executive Order 14294 (Overcriminalization of Federal Regulations)

Executive Order 14294 requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This rule does not adopt a criminal regulatory offense and is thus exempt from Executive Order 14924 requirements.

List of Subjects in 28 CFR Part 68

Administrative practice and procedure, Aliens, Citizenship and Naturalization, Civil Rights, Employment, Equal employment opportunity, Immigration.

Accordingly, for the reasons set forth in the preamble, and by the authority vested in the Acting Director, Executive Office for Immigration Review, by the Attorney General Order Number 6918–2026 and Attorney General Order Number 7081–2026, the Department amends part 68 of chapter I of title 28 of the Code of Federal Regulations as follows:

PART 68—RULES OF PRACTICE AND PROCEDURE FOR IMMIGRATION-RELATED ADMINISTRATIVE HEARINGS BEFORE OCAHO ADMINISTRATIVE LAW JUDGES

■ 1. The authority citation for part 68 is revised to read as follows:

Authority: 5 U.S.C. 301, 554, 557(b); 8 U.S.C. 1103, 1324a, 1324b, 1324c, and 1375a; 28 U.S.C. 509, 510, and 2461 note; and Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note), as amended by Pub. L. 104–134, 110 Stat. 1321–373.

■ 2. The heading to part 68 is revised to read as set forth above.

■ 3. Section 68.1 is amended by revising the first sentence to read as follows:

§ 68.1 Scope of rules.

The rules of practice in this part are applicable to adjudicatory proceedings before Administrative Law Judges of the Office of the Chief Administrative Hearing Officer (OCAHO), Executive Office for Immigration Review, United States Department of Justice, with regard to unlawful employment cases under section 274A of the INA (8 U.S.C. 1324a), unfair immigration-related employment practice cases under section 274B of the INA (8 U.S.C. 1324b), document fraud cases under section 274C of the INA (8 U.S.C. 1324c), and International Marriage Broker Regulation Act (IMBRA) cases pursuant to 8 U.S.C. 1375a. * * *

■ 4. Section 68.2 is amended by:

- a. Revising the first sentence of the definition of "Complainant";
- b. Revising the first sentence of the definition of "Final agency order";
- c. Adding, in alphabetical order, definitions of "IMB", "IMBRA case", and "IMBRA enforcement official"; and
- d. Revising the definition of "Issued".

The revisions and additions read as follows:

§ 68.2 Definitions.

* * * * *

Complainant means the Department of Homeland Security in cases arising under sections 274A and 274C of the INA, and the IMBRA enforcement official in IMBRA cases. * * *

* * * * *

Final agency order is an Administrative Law Judge's final order, in cases arising under sections 274A, 274B, and 274C of the INA or an IMBRA case, that has not been modified, vacated, or remanded by the Chief Administrative Hearing Officer pursuant to § 68.54, referred to the Attorney General for review pursuant to § 68.55(a), or accepted by the Attorney General for review pursuant to § 68.55(b)(3). * * *

* * * * *

IMB means an International Marriage Broker, as defined in 8 U.S.C. 1375a(e)(4);

IMBRA case means a proceeding under this part for the imposition of civil money penalties against an IMB for violation or attempted violation of the requirements of 8 U.S.C. 1375a(d)(1)–(4);

IMBRA enforcement official means the specific official or office, as designated by the Attorney General, responsible for initiating and prosecuting IMBRA cases;

* * * * *

Issued as used in sections 274A(e)(8) and 274C(d)(5) of the INA, or with

respect to an IMBRA case, means the date on which an Administrative Law Judge's final order, the Chief Administrative Hearing Officer's order, or an adoption, modification, or vacatur of one of those orders by the Attorney General becomes a final agency order;

* * * * *

■ 5. Section 68.3 is amended by adding paragraph (d) to read as follows:

§ 68.3 Service of complaint, notices, written orders, and decisions.

* * * * *

(d) In IMBRA cases, for mail service, service of the complaint and notice of hearing may be made at an address provided by the IMB or its representative or agent to the Department of Homeland Security, the Department of Justice, the State Department, or a State or local government for contacting the IMB, or at any other address (domestic or foreign) where the IMB is doing business.

■ 6. Section 68.5 is amended by revising paragraph (b) to read as follows:

§ 68.5 Notice of date, time, and place of hearing.

* * * * *

(b) *Place of hearing.* In cases under sections 274A and 274C of the INA, pursuant to sections 274A(e)(3)(B) and 274C(d)(2)(B) of the INA, hearings shall be held at the nearest practicable place to the place where the person or entity resides or to the place where the alleged violation occurred. In section 274B cases and in IMBRA cases, pursuant to 5 U.S.C. 554, due regard will be given to the convenience of the parties and the witnesses in selecting a place for a hearing within the United States. Hearings under sections 274A, 274B, and 274C of the INA, and in IMBRA cases, may be conducted by video teleconference.

■ 7. Section 68.7 is amended by:

■ a. Removing the heading from paragraph (a);

■ b. Revising paragraph (b) introductory text; and

■ c. Adding a sentence to the end of paragraph (c).

The revision and addition read as follows:

§ 68.7 Form of pleadings.

* * * * *

(b) A complaint filed pursuant to section 274A, 274B, or 274C of the INA, or in an IMBRA case, must contain the following:

* * * * *

(c) * * * Complaints filed in IMBRA cases must be signed by the IMBRA

enforcement official, but do not require a request for hearing.

* * * * *

■ 8. Section 68.9 is amended by revising paragraph (a) to read as follows:

§ 68.9 Responsive pleadings—answer.

(a) *Time for answer.* Within thirty (30) days after the service of a complaint, each respondent shall file an answer. In an IMBRA case only, the respondent will have an additional thirty (30) days to file an answer. In every IMBRA case, the respondent must provide in its first responsive pleading an address within the United States at which the respondent will accept service of all pleadings, documents, written orders, and decisions relating to the case.

* * * * *

■ 9. Section 68.11 is amended by revising paragraph (b) to read as follows:

§ 68.11 Motions and requests.

* * * * *

(b) *Responses to motions.* Within ten (10) days (or twenty (20) days for the respondent in an IMBRA case) after a written motion is served, or within such other period as the Administrative Law Judge may fix, any party to the proceeding may file a response in support of, or in opposition to, the motion, accompanied by such affidavits or other evidence upon which the party desires to rely. Unless the Administrative Law Judge provides otherwise, no reply to a response, counter-response to a reply, or any further responsive document shall be filed.

* * * * *

■ 10. Section 68.33 is amended by revising the first sentence of paragraph (f) to read as follows:

§ 68.33 Participation of parties and representation.

* * * * *

(f) * * * Except for a government attorney filing a complaint in a case before OCHAO, each attorney must file a notice of appearance. * * *

* * * * *

■ 11. Section 68.52 is amended by revising paragraphs (f) and (g) and adding paragraph (h) to read as follows:

§ 68.52 Final order of the Administrative Law Judge.

* * * * *

(f) *Contents of final order with respect to IMBRA cases.* If, upon the preponderance of the evidence, the Administrative Law Judge determines the respondent or respondents named in the complaint to have violated or attempted to violate the requirements of

8 U.S.C. 1375a(d)(1)–(4), the final order will require the respondent or respondents to pay a civil money penalty in an amount of not less than \$5,000 and not more than \$25,000 for each violation. These amounts are subject to adjustment for inflation as provided in 28 CFR 85.5.

(g) *Corrections to final orders.* An Administrative Law Judge may, in the interest of justice, correct any clerical mistakes or typographical errors contained in a final order in a case arising under sections 274A or 274C of the INA within thirty (30) days after the entry of the final order. Clerical mistakes and typographical errors contained in a final order in an IMBRA case may be corrected within sixty (60) days after the entry of the final order. Changes other than clerical mistakes or typographical errors will be considered in cases arising under sections 274A or 274C of the INA or IMBRA cases by filing a request for review to the Chief Administrative Hearing Officer by a party under § 68.54, or the Chief Administrative Hearing Officer may exercise discretionary review to make such changes pursuant to § 68.54. In cases arising under section 274B of the INA, an Administrative Law Judge may correct any substantive, clerical, or typographical errors or mistakes in a final order at any time within sixty (60) days after the entry of the final order.

(h) *Final agency order.* In a case arising under section 274A, 274B, or 274C of the INA, or in an IMBRA case, the Administrative Law Judge's final order becomes the final agency order sixty (60) days after the entry of the Administrative Law Judge's order unless:

(1) In a case arising under section 274A or 274C of the INA, or in an IMBRA case, the Chief Administrative Hearing Officer modifies, vacates, or remands the Administrative Law Judge's final order pursuant to § 68.54; or

(2) In a case arising under section 274A, 274B, or 274C of the INA, or in an IMBRA case, the final order is referred to the Attorney General pursuant to § 68.55.

■ 12. Section 68.53 is amended by:

■ a. Revising the section heading;

■ b. Revising paragraph (a) introductory text; and

■ c. Revising the last sentence of paragraph (c).

The revisions read as follows:

§ 68.53 Review of an interlocutory order of an Administrative Law Judge in cases arising under section 274A or 274C of the INA or an IMBRA case.

(a) *Authority.* The Chief Administrative Hearing Officer may,

within thirty (30) days of the entry of the Administrative Law Judge's interlocutory order in a case arising under section 274A or 274C of the INA, or within sixty (60) days after the entry of an interlocutory order in an IMBRA case, issue an order that modifies or vacates the interlocutory order. The Chief Administrative Hearing Officer may review an Administrative Law Judge's interlocutory order if:

* * * * *

(c) * * * If the Chief Administrative Hearing Officer does not modify, vacate, or remand an interlocutory order reviewed pursuant to paragraph (a) within thirty (30) days of the entry of the order in a case arising under section 274A or 274C of the INA (or sixty (60) days in an IMBRA case), the Administrative Law Judge's interlocutory order is deemed adopted.

* * * * *

■ 13. Section 68.54 is amended by revising the section heading and paragraphs (a), (b)(1), and (d)(1) to read as follows:

§ 68.54 Administrative review of a final order of an Administrative Law Judge in cases arising under section 274A or 274C of the INA or an IMBRA case.

(a) *Authority of the Chief Administrative Hearing Officer.* In a case arising under section 274A or 274C of the INA, the Chief Administrative Hearing Officer has discretionary authority, pursuant to sections 274A(e)(7) and 274C(d)(4) of the INA and 5 U.S.C. 557, to review any final order of an Administrative Law Judge in accordance with the provisions of this section. Additionally, the Chief Administrative Hearing Officer has discretionary authority, pursuant to 5 U.S.C. 557, to review any final order of an Administrative Law Judge issued in an IMBRA case, as provided in this section.

(1) A party may file with the Chief Administrative Hearing Officer a written request for administrative review within ten (10) days in a case arising under section 274A or 274C of the INA (or within twenty (20) days in an IMBRA case) of the entry of the Administrative Law Judge's final order, stating the reasons for or basis upon which it seeks review.

(2) The Chief Administrative Hearing Officer may review an Administrative Law Judge's final order on his or her own initiative by issuing a notification of administrative review within the time period specified in paragraph (a)(1) of this section. This notification must state the issues to be reviewed.

(b) * * *

(1) In any case in which administrative review has been requested or ordered pursuant to paragraph (a) of this section, the parties may file briefs or other written statements within twenty-one (21) days in a case arising under section 274A or 274C of the INA (or within forty (40) days in an IMBRA case) of the entry of the Administrative Law Judge's order.

* * * * *

(d) * * *

(1) The Chief Administrative Hearing Officer may enter an order that modifies or vacates the Administrative Law Judge's final order, or remands the case to the Administrative Law Judge for further proceedings consistent with the Chief Administrative Hearing Officer's order. The order by the Chief Administrative Hearing Officer must be entered on or before thirty (30) days subsequent to the entry of the Administrative Law Judge's final order in a case under section 274A or 274C of the INA (or sixty (60) days in an IMBRA case), but not before the time for filing briefs has expired. However, the Chief Administrative Hearing Officer is not obligated to enter an order unless the Administrative Law Judge's order is modified, vacated, or remanded.

* * * * *

■ 14. Section 68.55 is amended by revising the section heading, the first two sentences of paragraph (a), and paragraphs (b) and (d)(2) to read as follows:

§ 68.55 Referral of a case arising under section 274A, 274B, or 274C of the INA or an IMBRA case to the Attorney General for review.

(a) * * * The Chief Administrative Hearing Officer must promptly refer to the Attorney General for review any final order in a case arising under section 274A, 274B, or 274C of the INA, or in an IMBRA case, if the Attorney General so directs the Chief Administrative Hearing Officer. For cases arising under section 274A and 274C of the INA, or in an IMBRA case, the Attorney General may so direct the Chief Administrative Hearing Officer within no more than 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 thirty (30) days after the deadline for review under § 68.54(d)(1) if the Chief Administrative Hearing Officer does not modify or vacate the Administrative Law Judge's final order. * * *

(b) *Request by Secretary of Homeland Security or IMBRA enforcement official for review by the Attorney General.* The Chief Administrative Hearing Officer

must promptly refer to the Attorney General for review any final order in a case arising under section 274A or 274C of the INA, at the request of the Secretary of Homeland Security, or in an IMBRA case, at the request of the IMBRA enforcement official, if the request is made within thirty (30) days of the entry of an order modifying or vacating the Administrative Law Judge's final order, or within thirty (30) days after the deadline for review under § 68.54(d)(1) if the Chief Administrative Hearing Officer does not modify or vacate the Administrative Law Judge's final order.

(1) The Department of Homeland Security or the IMBRA enforcement official 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 Secretary of Homeland Security or the IMBRA enforcement official 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 Secretary of Homeland Security or the IMBRA enforcement official 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 Secretary of Homeland Security's or the IMBRA enforcement official'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.

* * * * *

(d) * * *

(2) If the Attorney General declines the Secretary of Homeland Security's or the IMBRA enforcement official'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 Secretary of Homeland Security's or the IMBRA enforcement official'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.

Sirce E. Owen,

*Acting Director, Executive Office for
Immigration Review, Department of Justice.*

[FR Doc. 2026–16290 Filed 8–10–26; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[SATS No. ND–057–FOR; Docket ID: OSM–2022–0011; S1D1S SS08011000 SX064A000 234S180110; S2D2S SS08011000 SX064A000 23XS501520]

North Dakota Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining (OSM), are approving an amendment to the North Dakota regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). North Dakota has made changes to the North Dakota Century Code and North Dakota Administrative Code resulting from actions initiated during both the 2017 and 2021 Legislative Sessions. Changes include altering the time required for scheduling and applying for select permit related actions, creation of the North Dakota Department of Environmental Quality and a transfer of select responsibilities from the Department of Health, establishment of the Department of Water Resources, and the powers and duties of that agency and the state engineer.

DATES: The effective date is September 10, 2026.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Fleischman, Denver Field Division Chief, Office of Surface Mining, Casper Area Office, P.O. Box 11018, 100 East B Street, Room 4100, Casper, Wyoming 82601–1018. Telephone: (307) 204–4397. Email: jfleischman@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the North Dakota Program
- II. Submission of the Amendment
- III. OSMRE's Findings
- IV. Summary and Disposition of Comments
- V. OSMRE's Decision
- VI. Statutory and Executive Order Reviews

I. Background on the North Dakota Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *See* 30 U.S.C. 1253(a)(1) and (7).

On the basis of these criteria, the Secretary of the Interior approved the North Dakota program on December 15, 1980. You can find background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval of the North Dakota program in the December 15, 1980, **Federal Register** (45 FR 82214). You can also find later actions concerning the North Dakota program and program amendments at 30 CFR 934.15 and 934.30.

II. Submission of the Amendment

By letter dated November 30, 2022 (Administrative Record No. ND–057–01), North Dakota sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota sent the amendment at its own initiative to include changes made to both the North Dakota Century Code (NDCC) and the North Dakota Administrative Code (NDAC). House Bill No. 1061, from the 2021 Legislative Session, increased the time for scheduling an informal conference on a permit, significant permit revision, or permit renewal application from 30 days to 45 days. It also changed the time a mining company is required to apply for a permit renewal from 120 days to 180 days prior to permit expiration. Senate Bill No. 2327, from the 2017 Legislative Session, created the North Dakota Department of Environmental Quality and transferred duties from the North Dakota Department of Health related to environmental quality. House Bill No. 1353, from the 2021 Legislative Session, established the North Dakota Department of Water Resources and identified the powers and responsibilities of the agency and the state engineer. Modifications to North Dakota's approved coal regulatory program are made to North Dakota Century Code Chapter 38–14.1 and North Dakota Administrative Code Article 69–5.2 to conform to the realigned responsibilities.

We announced receipt of the proposed amendment in the May 19, 2023, **Federal Register** (88 FR 32163). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because none was requested. Two comments were received on the amendment. The public comment period ended on June 20, 2023.

III. OSMRE's Findings

We made the following findings concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below.

1. North Dakota House Bill No. 1061

The following amendments to North Dakota Century Code 38–14.1 were enacted by House Bill No. 1061 as part of the Sixty-Seventh Legislative Assembly of North Dakota, in session January 5, 2021.

A. NDCC 38–14.1–19 (1)

This amendment changes the time allowed for the commission to schedule an informal conference from within thirty days of receipt of the request to within forty-five days of receipt of the request. Comparable Federal regulations are found at 30 CFR 773.6(c)(2), which state that the regulatory authority must hold an informal conference within a reasonable time following receipt of the request. This proposed change allows 15 additional days to prepare for informal conference procedures, which is a reasonable addition of time. Thus, North Dakota's proposed changes to NDCC 38–14.1–19 are consistent with and no less effective than the Federal regulations.

B. NDCC 38–14.1–22 (3)

This amendment changes the time allowed for an applicant to submit a permit renewal from at least one hundred twenty days before the expiration of the valid permit to at least one hundred eighty days before the expiration of the valid permit. Comparable Federal regulations are found at 30 CFR 774.15(a)(b)(1), which state that a permit renewal must be filed with the regulatory authority at least 120 days prior to expiration of the existing permit. By increasing this time to 180 days, this proposed change requires that applications for permit renewal be submitted earlier, giving more time for review and processing. This proposed change, thus updates State rules to make them more stringent