

service of that party is accomplished by including the party in the address portion of the e-mail. If the other party has not elected e-Filing, service is by conventional means. The Board will confirm receipt of e-mailed pleadings by sending a return e-mail.

Especially where both parties elect to participate, e-Filing should permit faster case processing because the Board and the parties will receive filings the same day they are submitted. This is particularly important for pleadings filed with the Clerk of the Board in Washington, D.C., because mailed pleadings are first sent to Ohio for irradiation. Where only one party elects to engage in e-Filing, the Board will set deadlines so that the party filing and receiving documents by conventional means will have adequate time to prepare and file a response.

Electronic Formats Allowed

Our interim rule allows electronic pleadings to be filed in "any widely-used electronic format." We believe that e-Filing should require as little specialized equipment, software, and expertise as possible. Ideally, all a person should require is a personal computer equipped with a word-processing application, a Web browser, and access to e-mail and the Internet. Keeping technical requirements to a minimum is important in Board proceedings because a significant proportion of the parties appearing before us are representing themselves, or are represented by non-attorneys. To require specialized equipment and software, or significant computer expertise, would preclude many parties from participating in e-Filing. If the Board or receiving party has difficulty viewing or printing an electronic pleading, the regulations require informal attempts to resolve the problem. If such efforts are unsuccessful, the filing party must serve the pleading by conventional means.

The Board expects that the primary pleading in most e-Filings will consist of an electronic attachment to the e-mail such as a word-processing file. However, we will allow the submission of very brief pleadings, one or two paragraphs, in the body of the e-mail message. The reason for this restriction is a concern that the formatting of the pleading may be adversely affected, making it difficult to read. We ask that parties identify the nature of the pleading and the appeal to which it is related in the Subject portion of the e-mail, e.g., Appellant's Prehearing Submission in Doe v. Agency, XX-0752-03-XXXX-I-1.

Hybrid Filings

Only a small proportion of the contents of an MSPB case file typically originate as electronic files created for the Board proceeding. Most are paper documents that could only be converted to electronic format by scanning. For that reason, pleadings that include both an electronic file created for the Board proceeding and one or more paper documents will be common. Such "hybrid" filings are allowed under the interim rule. When a pleading contains both an electronic component and a non-electronic component, the party files the electronic component by e-mail, and the non-electronic component by conventional means. Such a pleading is considered filed and served when all components have been filed and served. We note, however, that an e-Appeal is filed when submitted electronically, regardless of when requested attachments are filed. The reason is that our regulations do not require that an appeal include any documentation; they require information only. See 5 CFR 1201.24(a).

Large Image Files Limitation

When paper documents have been converted to electronic format by scanning, they consume much more disk space than do electronic text files, such as word-processing files. Because transmitting and downloading image files can consume a great deal of time and resources, our regulations provide that documents that can only be converted to electronic format by scanning must be filed by traditional means when the paper document exceeds 25 pages.

List of Subjects

5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

5 CFR Part 1203

Administrative practice and procedure, Civil rights, Government employees.

5 CFR Part 1208

Administrative practice and procedure, Government employees, Veterans.

5 CFR Part 1209

Administrative practice and procedure, Government employees, Whistleblowing.

■ Accordingly, the Board amends 5 CFR parts 1201, 1203, 1208, and 1209 as follows:

PART 1201—[AMENDED]

■ 1. The authority citation for part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204 and 7701, unless otherwise noted.

■ 2. Section 1201.4 is amended by revising paragraphs (i), (k), and (l) and by adding new paragraphs (m), (n), and (o) to read as follows:

§ 1201.4 General definitions.

* * * * *

(i) *Service*. The process of furnishing a copy of any pleading to Board officials, other parties, or both, either by mail, by facsimile, by commercial or personal delivery, or by electronic mail, provided the requirements of § 1201.5 of this part have been met.

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(k) *Certificate of Service*. A document certifying that a party has served copies of pleadings on the other parties. If a pleading is served by electronic mail, the address portion of the electronic mail message serves as a certificate of service.

(l) *Date of filing*. A document that is filed with a Board office by personal delivery is considered filed on the date on which the Board office receives it. The date of filing by facsimile is the date of the facsimile. The date of filing by mail is determined by the postmark date; if no legible postmark date appears on the mailing, the submission is presumed to have been mailed five days (excluding days on which the Board is closed for business) before its receipt. The date of filing by commercial delivery is the date the document was delivered to the commercial delivery service. The date of filing by electronic mail is the date on which the electronic mail is sent.

(m) *Internet filing option*. The option that an appellant may exercise to commence an appeal proceeding before the Board by filing through the electronic application (e-Appeal) available at the Board's Web site (<http://www.mspb.gov/e-appeal.html>).

(n) *Electronic mail filing and service*. The process of filing certain pleadings with the Board and serving certain pleadings on other parties using electronic mail.

(o) *Electronic signature*. The term "electronic signature" means a method that identifies and authenticates a particular person as the source of the electronic message and indicates such person's approval of the information contained in the electronic message.

■ 3. Subpart A of part 1201 is amended by adding a new § 1201.5 to read as follows: