

§ 1201.5 Electronic mail and Internet filing procedures.

(a) *Scope.* This section sets forth the rules applicable to the filing and service of pleadings by electronic mail and the Board's Internet filing option for matters within the Board's original jurisdiction (as explained in § 1201.2 of this subpart) and matters within the Board's appellate jurisdiction (as explained in § 1201.3 of this subpart). The electronic submission of a pleading commencing an appeal proceeding before the Board in a matter identified in § 1201.3 of this subpart must be filed using the Board's Internet filing option available at the Board's Web site (<http://www.mspb.gov/e-appeal.html>). Except for matters identified in paragraph (b) of this section, pleadings relating to the adjudication of a matter identified in either § 1201.2 or § 1201.3 of this subpart may be filed using electronic mail, provided the requirements of this section are satisfied.

(b) *Matters not covered.* Matters that may not be filed by electronic mail or the Internet filing option are:

- (1) A request to hear a case as a class appeal and any opposition thereto (§ 1201.27 of this subpart),
- (2) Service of subpoenas (§ 1201.83 of this subpart),
- (3) The initial filing in a Special Counsel complaint seeking disciplinary action (§ 1201.122 of subpart D),
- (4) The initial filing in a Special Counsel complaint seeking corrective action (§ 1201.128 of subpart D),
- (5) The initial filing in a Special Counsel request for a stay (§ 1201.134 of subpart D),
- (6) The initial filing in an agency action seeking to discipline an administrative law judge (§ 1201.137 of subpart D),
- (7) The initial filing in a case involving a proposal to remove a career appointee from the Senior Executive Service (§ 1201.143 of subpart D), and
- (8) Filings with the Special Panel (§ 1201.173 of subpart E).

(c) *Internet filing option.* The electronic filing of an appeal is only allowed by using the Board's Internet filing option (e-Appeal) available at the Board's Web site (<http://www.mspb.gov/e-appeal.html>). The Internet filing option allows an appellant to contest various types of agency actions and decisions and to raise various types of defenses and claims. The Internet filing option also includes the option of designating a representative and provides for an electronic signature. Detailed instructions explaining how to use the Board's Internet filing option are available at the Board's Web site.

(d) *Filing electronic mail pleadings with the Board.* With the exception of pleadings commencing an appeal before the Board and the exceptions noted in paragraphs (b)(1) through (b)(8) of this section, a party may make any filing regarding a matter covered by this section by electronic mail if the party has completed the authorization under paragraph (f) of this section. All electronic mail filings should be addressed to the appropriate regional or field office or to the Clerk of the Board for matters pending at Headquarters. Electronic mail addresses to be used when filing with the Board will be specified in acknowledgement orders.

(e) *Electronic mail service by the Board and parties.* The Board may serve upon any party a document regarding a matter covered by this section by electronic mail provided that the party being served has authorized electronic mail service and acceptance of electronic mail service in accordance with paragraph (f) of this section. A party may serve upon any party a pleading or document regarding a matter covered by this section by electronic mail provided that both the sending and receiving parties have authorized electronic mail service and acceptance of electronic mail service in accordance with paragraph (f) of this section.

(f) *Election to engage in electronic mail filing.* (1) A party may elect to engage in electronic mail filing during a Board proceeding by filing with the judge or Board, and serving upon the other parties, a written statement of such election that includes the electronic mail address at which the party agrees to receive service. An election to engage in electronic mail filing constitutes consent to accept electronic service of pleadings and Board issuances at the electronic mail address specified. Such an election may be filed by any means provided in paragraph (i) of § 1201.4 of this part, including electronic mail.

(2) All electronic mail filings must be sent from the electronic mail address specified in the election.

(3) A pleading or Board issuance served electronically on a party who has made an election under this section is deemed received on the date of electronic submission.

(4) A party who elects to engage in electronic mail filing may file any pleading, or portion of a pleading as described in paragraph (k) of this section, by non-electronic means.

(5) A party may rescind an election to engage in electronic mail filing at any time by filing notice of the rescission with the judge or, if applicable, the

Clerk and serving notice of the rescission on the other parties.

(g) *Board acknowledgement of electronic filing.* The Board will acknowledge receipt of a pleading filed by electronic mail by sending an electronic mail confirmation of receipt.

(h) *Failed electronic mail service.* If an attempt to serve a pleading or document upon the Board or a party by electronic mail is unsuccessful, the sending party must attempt to resolve the problem. If electronic service cannot be accomplished within a reasonable period, the sending party must serve a copy of the pleading by one of the other means authorized in, and as provided by, § 1201.26(b)(2) of subpart B.

(i) *Requirements relating to electronic mail.* Parties should include the title of the pleading, the Board docket number, and the case title, e.g. Doe v. Agency, in the subject heading of any electronic mail served upon the Board or another party. Pleadings up to two paragraphs in length may be included in the body of an electronic mail. Pleadings exceeding two paragraphs in length must be served as an attachment, or attachments, to an electronic mail.

(j) *Attachments to electronic mail pleadings.* (1) Electronic mail attachments may be in any widely-used electronic format.

(2) If a recipient is unable to view, open, or print an electronic mail attachment sent with a pleading, the recipient shall be responsible for informing the sender of the problem as soon as practicable and identifying all attachments that could not be viewed, opened, or printed. In response to such a report, the sending party shall attempt to resolve the problem as soon as practicable. In the event that problems relating to the transmission of the document cannot be resolved, the sending party shall have three calendar days to send a paper copy of all identified attachments to the complaining party.

(3) Electronic mail documents and all attachments must be formatted so that they will print on standard 8½ inch by 11 inch paper.

(4) Documents that can only be converted to electronic format by scanning may not be filed electronically if the length of the paper document exceeds 25 pages.

(k) *Hybrid pleadings containing both electronic files and paper documents.* A party who has elected electronic mail filing under this section may file a hybrid pleading in which part of the pleading is submitted electronically, and part of the pleading consists of one or more paper documents filed by non-electronic means. When a hybrid