

(c) *Regional and Field Offices.* The Board has six regional offices and five field offices located throughout the country (See Appendix II to 5 CFR part 1201 for a list of the regional and field offices). The regional and field offices enter initial appeals onto their dockets and decide these cases as provided for in the Board's regulations.

Dated: December 12, 1994.

Robert E. Taylor,
Clerk of the Board.

[FR Doc. 94-30892 Filed 12-16-94; 8:45 am]

BILLING CODE 7400-01-P

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Board is amending its rules to update and clarify various provisions and to ensure that the rules in this part, as a whole, are effective, consistent, sensible, and understandable, in accordance with Executive Order 12866 of September 30, 1993. By making this amendment, the Board is providing current and consistent information to its customers regarding its adjudicatory practices and procedures.

EFFECTIVE DATE: December 19, 1994.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, 202-653-7200.

SUPPLEMENTARY INFORMATION: The Merit Systems Protection Board is amending its rules at 5 CFR part 1201 to add a new appealable action and to correct the citations for two others in § 1201.3(a); to delete § 1201.3(d); to clarify the place of filing requirements in §§ 1201.4(d), 1201.22(a), and 1201.182 following the realignment of the Board's regional and field offices; to correct a cross-reference in § 1201.37(a); to conform the method of filing requirements for original jurisdiction cases in § 1201.122(c) to those for appellate jurisdiction cases; to replace the July 1991 edition of the MSPB Appeal Form in Appendix I with the revised October 1994 edition; to add information regarding the TDD (Telecommunications Device for the Deaf) capability of facsimile numbers in the regional and field offices, add the suite number of the Atlanta Regional Office, and change the address and facsimile number of the Denver Field Office in Appendix II; and to add and delete approved hearing locations in Appendix III.

(a) Section 1201.3(a)(6) is amended by adding 5 CFR part 844 to the citation so that the citation refers to the part of the regulations of the Office of Personnel Management governing disability retirement determinations under the Federal Employees' Retirement System, as well as to 5 CFR parts 831 and 842.

(b) Section 1201.3(a)(7) is amended by correcting the citation to read "5 CFR 731.103(d) and 731.508." The corrected citation refers to the regulations of the Office of Personnel Management providing for appeals to the Board of suitability determinations made by an agency acting under authority delegated by OPM (5 CFR 731.103(d)) and such determinations made by OPM (5 CFR 731.508).

(c) Section 1201.3(a) is amended by adding a new subparagraph (21) to include as an action appealable to the Board a reduction-in-force action affecting a career or career candidate appointee in the Foreign Service. Public Law 103-326, effective April 30, 1994, amended the Foreign Service Act of 1980 (22 U.S.C. 4001 et seq.) by, *inter alia*, providing authority to the Secretary of State to conduct reductions in force affecting career or career candidate appointees in the Foreign Service and by granting those appointees the right to appeal such reduction-in-force actions to the Board.

(d) Section 1201.3 is amended by deleting paragraph (d). This paragraph was added to the Board's rules in this part to implement 5 U.S.C. 1221(j), as added by the Whistleblower Protection Act of 1989 (Pub. L. 101-12). Subsequently, the Board ruled in *McCann v. Navy*, 57 M.S.P.R. 288 (1993) that 5 U.S.C. 1221(j) and the Board's regulation at 5 CFR 1201.3(d) should be construed to apply only to individual right of action appeals and other actions established by 5 U.S.C. chapter 12. Because the provisions of part 1201 are applicable to appeals that arise from actions other than those established by 5 U.S.C. chapter 12, the Board has determined that the continued inclusion of § 1201.3(d) in this part is likely to prove confusing to parties and that it should, therefore, be deleted.

(e) Section 1201.4(d) is amended to clarify the definition of "appropriate" office for purposes of filings with the Board. On March 30, 1994 (59 FR 14739), the Board published a revision to its rules in appendix II and appendix III of this part to reflect the realignment of its regional office structure into six regional and five field offices. In the **SUPPLEMENTARY INFORMATION** explaining that revision, the Board stated in part: "Appeals and related matters will continue to be filed with either the

regional or field office having geographic jurisdiction." The Board is now amending § 1201.4(d) to specifically include field offices, as well as regional offices, in the definition.

(f) Section 1201.22(a) is amended to clarify that appeals and responses to appeals are to be filed with the appropriate Board regional or field office. See explanation in paragraph (e) above.

(g) Section 1201.37(a) is amended by deleting the reference to "§ 1201.116" and replacing it with "§ 1201.117." On June 16, 1994 (59 FR 30863), the Board published an amendment to its rules in this part that revised § 1201.115, redesignated §§ 1201.116 through 1201.119 as §§ 1201.117 through 1201.120, respectively, and added a new § 1201.116. Because the former § 1201.116 was redesignated as § 1201.117, the Board is now making a conforming amendment to the cross-reference to that section in § 1201.37(a).

(h) Section 1201.122(c) is amended by adding "commercial overnight delivery" as a method of filing and service. On July 7, 1993 (58 FR 36345), the Board amended its rules in subparts B and C of this part to permit filing and service of appeals and petitions for review by commercial overnight delivery. The Board is now amending § 1201.122(c) to conform the method of filing and service requirements for Special Counsel complaints and proposed agency actions against administrative law judges in subpart D of this part to those for appeals and petitions for review.

(i) Section 1201.163(c)(1) is amended to clarify that mixed case appeals governed by Reorganization Plan No. 1 of 1978 are to be filed with the appropriate Board regional or field office. See explanation in paragraph (e) above.

(j) Section 1201.182(a) and § 1201.182(c) are amended to clarify that petitions for enforcement of orders issued under the Board's appellate jurisdiction are to be filed with the appropriate Board regional or field office. See explanation in paragraph (e) above.

(k) Appendix I is amended by substituting the revised October 1994 edition of the MSPB Appeal Form, Optional Form 283 (Rev. 10/94), for the July 1991 edition. The form has been revised as follows:

(1) On page 1, "WHERE TO FILE AN APPEAL" has been revised to state that the appeal is to be filed with the Board's regional or field office having geographic jurisdiction.

(2) On page 1, "WHEN TO FILE AN APPEAL" has been revised to reflect the

10-day extension of the time limit for filing appeals made by the Board's amendment to its rules in this part on June 17, 1994 (59 FR 31109).

(3) On page 1, both "WHEN TO FILE AN APPEAL" and "HOW TO FILE AN APPEAL" have been revised to include "commercial overnight delivery" as a method of filing an appeal, in accordance with the Board's amendment to its rules in this part on July 7, 1993 (58 FR 36345).

(4) On page 1, the final sentence under "Public Reporting Burden" has been revised to replace "Office of Management Analysis" with "Office of Planning and Resource Management Services" to reflect the reorganization of the Board's headquarters offices and, at the request of the Office of Management and Budget, to delete the requirement that comments and suggestions be sent to OMB's Paperwork Reduction Project.

(5) On page 2, a sentence has been added in block 7 to put the appellant on notice that designating a representative in the appeal specifically includes authority for the representative to settle the appeal on the appellant's behalf.

(6) On page 2, block 7 has been revised to clarify what documents should be attached to the appeal and to advise the appellant that filing should not be delayed if the relevant SF-50 or its equivalent is not available.

(7) On page 2, a check-off box for "Foreign Service" has been added in block 20 because career and career candidate appointees in the Foreign Service now have the right to appeal reduction-in-force actions to the Board. See explanation in paragraph (c) above.

(8) On page 3, in block 32.a, the phrase "handicapping condition" has been replaced with "disability" to reflect the new preferred terminology under The Americans with Disabilities Act.

(9) On page 4, in block 38, the phrase "full 30-day notice" has been replaced with "the required number of days notice" to reflect changes in statute and Office of Personnel Management regulations that now require at least 60 days advance notice for most reduction-in-force actions, with provision for a longer notice period—at least 120 days—for some Department of Defense actions, and shorter notice—less than 60 days but at least 30 days—under certain circumstances.

(10) On page 6, in block 41.a, the material after "Yes" has been revised to clarify that the attachment requested is a copy of the appellant's request to the

Office of Special Counsel for corrective action.

(11) Throughout the form, additional text has been highlighted for emphasis.

The Office of Management and Budget has renewed its approval of the MSPB Appeal Form through July 31, 1997. The form is no longer stocked by the General Services Administration, but may be obtained from the Board's Financial and Administrative Management Division; see notice published September 15, 1994 (59 FR 47363), corrected October 18, 1994 (59 FR 52558).

(l) Appendix II is amended by adding information regarding the TDD (Telecommunications Device for the Deaf) capability of facsimile numbers in the regional and field offices, by substituting the suite number for "10th Floor" in the address of the Atlanta Regional Office, and by changing the address and facsimile number of the Denver Field Office to reflect the relocation of that office effective December 1, 1994.

(m) Appendix III is amended by adding two approved hearing locations and deleting one under the Atlanta Regional Office, by adding two under the Denver Field Office, by adding one under the New York Field Office, and by adding one under the San Francisco Regional Office.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1201 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.

§ 1201.3 [Amended]

2. Section 1201.3 is amended at paragraph (a)(6) by removing the phrase "5 CFR parts 831 and 842" in the citation and by adding in its place the phrase "5 CFR parts 831, 842, and 844."

3. Section 1201.3 is amended at paragraph (a)(7) by removing the citation "(5 CFR 731.401)" and by adding in its place the citation "(5 CFR 731.103(d) and 731.508)".

4. Section 1201.3 is amended by adding a new paragraph (a)(21) as follows:

§ 1201.3 Appellate jurisdiction.

(a) * * *

(21) Reduction-in-force action affecting a career or career candidate appointee in the Foreign Service (Pub. L. 103-236, sec. 181(a)(2), to be codified at 22 U.S.C. 4011).

* * * * *

5. Section 1201.3 is amended by removing paragraph (d).

§ 1201.4 [Amended]

6. Section 1201.4 is amended at paragraph (d) by adding the phrase "or field" after "regional" in the title and the first, second, and fourth sentences, and by adding the phrase "and field" after "regional" in the third sentence.

§ 1201.22 [Amended]

7. Section 1201.22 is amended at paragraph (a) by adding the phrase "or field" after "regional" in the first sentence.

§ 1201.37 [Amended]

8. Section 1201.37 is amended at paragraph (a)(3) by removing "§ 1201.116" at the end of the second sentence and by adding in its place "§ 1201.117."

§ 1201.122 [Amended]

9. Section 1201.122 is amended at paragraph (c) by adding the phrase "by commercial overnight delivery," after "by facsimile," in the second sentence.

§ 1201.163 [Amended]

10. Section 1201.163 is amended at paragraph (c)(1) by deleting the phrase "Regional Office" in the second sentence and by adding in its place the phrase "regional or field office."

§ 1201.182 [Amended]

11. Section 1201.182 is amended by adding the phrase "or field" after "regional" in the second sentence of paragraph (a) and in the fourth sentence of paragraph (c).

Appendix I [Amended]

12. Appendix I to part 1201 is amended by removing the July 1991 edition of the MSPB Appeal Form, Optional Form 283 (Rev. 7-91), and by adding in its place the October 1994 edition of the MSPB Appeal Form, Optional Form 283 (Rev. 10-94), as follows:

Appendix I to Part 1201—Merit Systems Protection Board Appeal Form

BILLING CODE 7400-01-P

U.S. MERIT SYSTEMS PROTECTION BOARD



APPEAL FORM

INSTRUCTIONS

GENERAL: You do not have to use this form to file an appeal with the Board. However, if you do not, your appeal must still comply with the Board's regulations. 5 C.F.R. Parts 1201 and 1209. Your agency's personnel office will give you access to the regulations, and the Board will expect you to be familiar with them. You also should become familiar with the Board's key case law and controlling court decisions as they may affect your case. **You must tell the Board if you are raising an affirmative defense (see Part IV), and you are responsible for proving each defense you raise.**

WHERE TO FILE AN APPEAL: You must file your appeal with the Board's regional or field office which has responsibility for the geographic area in which you are employed. See 5 C.F.R. Part 1201, Appendix II.

WHEN TO FILE AN APPEAL: Your appeal must be filed during the period beginning with the day after the effective date of the action you are appealing and ending on the 30th day after the effective date. You may not file your appeal before the effective date of the action you are appealing. If you are appealing from a decision which does not set an effective date, you must file within 35 days of the date of the decision you are appealing. If your appeal is late, it may be dismissed as untimely. The date of the filing is the

date your appeal is postmarked, the date of the facsimile transmission, the date it is delivered to a commercial overnight delivery service, or the date of receipt if you personally deliver it to the regional or field office.

HOW TO FILE AN APPEAL: You may file your appeal by mail, by facsimile, by commercial overnight delivery, or by personal delivery. You must submit two copies of both your appeal and all attachments. You may supplement your response to any question on separate sheets of paper, but if you do, please put your name and address at the top of each additional page. All of your submissions must be legible and on 8 1/2" x 11" paper. **Your appeal must contain your or your representative's signature in block 6.** If it does not, your appeal will be rejected and returned to you. If your representative signs block 6, you must sign block 11 or submit a separate written designation of representative.

WHISTLEBLOWING APPEAL/STAY REQUEST: If you believe the action you are appealing was threatened, proposed, taken, or not taken because of whistleblowing activities, you must complete Part VII of this form. If you are requesting a stay, you must complete Part VIII of this form.

Privacy Act Statement: This form requests personal information which is relevant and necessary to reach a decision in your appeal. The U.S. Merit Systems Protection Board collects this information in order to process appeals under its statutory and regulatory authority. Since your appeal is a voluntary action you are not required to provide any personal information in connection with it. However, failure to supply the U.S. Merit Systems Protection Board with all the information essential to reach a decision in your case could result in the rejection of your appeal.

The U.S. Merit Systems Protection Board is authorized under provisions of Executive Order 9397, dated November 22, 1943, to request your Social Security number, but providing your Social Security number is voluntary and failure to provide it will not result in the rejection of your appeal. Your Social Security number will only be used for identification purposes in the processing of your appeal.

You should know that the decisions of the U.S. Merit Systems Protec-

tion Board on appeals are final administrative decisions and, as such, are available to the public under the provisions of the Freedom of Information Act. Additionally, it is possible that information contained in your appeal file may be released as required by the Freedom of Information Act. Some information about your appeal will also be used in depersonalized form as a data base for program statistics.

Public Reporting Burden: The public reporting burden for this collection of information is estimated to vary from 20 minutes to 1 hour, with an average of 30 minutes per response, including time for reviewing the form, searching existing data sources, gathering the data necessary, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to the Office of Planning and Resource Management Services, Merit Systems Protection Board, 1120 Vermont Ave., NW, Washington, DC 20419.

Part I Appellant Identification

1. Name (last, first, middle initial)	2. Social Security Number
3. Present address (number and street, city, state, and ZIP code) You must notify the Board of any change of address or telephone number while the appeal is pending with the MSPB.	4. Home phone (include area code)
	5. Office phone (include area code)
6. I certify that all of the statements made in this appeal are true, complete, and correct to the best of my knowledge and belief	Signature of appellant or designated representative Date signed

Part II Designation of Representative

7 You may represent yourself in this appeal, or you may choose someone to represent you. Your representative does not have to be an attorney. You may change your designation of a representative at a later date, if you so desire, but **you must notify the Board promptly of any change.** Where circumstances require, a separate designation of representative may be submitted after the original filing. Include the information requested in blocks 7 through 11.

"I hereby designate _____ to serve as my representative during the course of this appeal. I understand that my representative is authorized to act on my behalf. In addition, I specifically delegate to my representative the authority to settle this appeal on my behalf. I understand that any limitation on this settlement authority must be filed in writing with the Board."

8 Representative's address (number and street, city, state, and ZIP code)

9. Representative's employer

10.a) Representative's telephone number (include area code)

10.b) Representative's facsimile number

11 Appellant's signature

Date

Part III Appealed Action

12 Briefly describe the **agency action** you wish to appeal and attach the proposal letter and decision letter. If you are appealing a decision relating to the denial of retirement benefits, attach a copy of OPM's reconsideration decision. If the relevant SF-50 or its equivalent is available, send it now; however, do NOT delay filing your appeal because of it. You may submit the SF-50 when it becomes available. Later in the proceeding, you will be afforded an opportunity to submit detailed evidence in support of your appeal.

13 Name and address of the agency that took the action you are appealing (including bureau or other divisions, as well as street address, city, state and ZIP code)

14. Your position title and duty station at the time of the action appealed

15 Grade at time of the action appealed

16 Salary at the time of the action appealed

\$ _____ per

17 Are you a veteran and/or entitled to the employment rights of a veteran?

☐ Yes ☐ No

18. Employment status at the time of the action appealed

☐ Temporary ☐ Applicant ☐ Retired

☐ Permanent ☐ Term ☐ Seasonal

19 If retired, date of retirement (month, day, year)

20. Type of service

☐ Competitive ☐ SES
☐ Excepted ☐ Postal Service
☐ Foreign Service

21 Length of government service

22. Length of service with acting agency

23. Were you serving a probationary or trial period at the time of the action appealed?

☐ Yes ☐ No

24 Date you received written notice of the proposed action (month, day, year) (attach a copy)

25. Date you received the final decision notice (month, day, year) (attach a copy)

26. Effective date of the action appealed (month, day, year)

27 Explain briefly why you think the agency was wrong in taking this action.	
28. Do you believe the penalty imposed by the agency was too harsh? ☐ Yes ☐ No	29. What action would you like the Board to take on this case (i.e., what remedy are you asking for)?
Part IV Appellant's Defenses	
30.a) Do you believe the agency committed harmful procedural error(s)? ☐ Yes ☐ No	30.b) If so, what is (are) the error(s)?
30.c) Explain how you were harmed by the error(s).	
31.a) Do you believe that the action you are appealing violated the law? ☐ Yes ☐ No	31.b) If so, what law?
31.c) How was it violated?	
32.a) If you believe you were discriminated against by the agency, in connection with the matter appealed, because of your race, color, religion, sex, national origin, marital status, political affiliation, disability, or age, indicate so and explain why you believe it to be true.	
32.b) Have you filed a formal discrimination complaint with your agency or any other agency concerning the matter which you are seeking to appeal? ☐ Yes (attach a copy) ☐ No	
32.c) If yes, place filed (agency, number and street, city, state, and ZIP code)	32.d) Date filed (month, day, year)
	32.e) Has a decision been issued? ☐ Yes (attach a copy) ☐ No

33.a) Have you, or anyone in your behalf, filed a formal grievance with your agency concerning this matter, under a negotiated grievance procedure provided by a collective bargaining agreement? ☐ Yes (attach a copy) ☐ No	33.b) Date filed (month, day, year)
33.c) If yes, place filed (agency, number and street, city, state, and ZIP code)	33.d) Has a decision been issued? ☐ Yes (attach a copy) ☐ No 33.e) If yes, date issued (month, day, year)

Part V Hearing

34. You may have a right to a hearing on this appeal. If you do not want a hearing, the Board will make its decision on the basis of the documents you and the agency submit, after providing you and the agency with an opportunity to submit additional documents.

Do you want a hearing? ☐ Yes ☐ No

If you choose to have a hearing, the Board will notify you where and when it is to be held.

Part VI Reduction In Force**INSTRUCTIONS**

Fill out this part only if you are appealing from a Reduction in Force. Your agency's personnel office can furnish you with most of the information requested below

35. Retention group and sub-group	36. Service computation date	37.a) Has your agency offered you another position rather than separating you? ☐ Yes ☐ No
37.b) Title of position offered	37.c) Grade of position offered	37.d) Salary of position offered \$ per
37.e) Location of position offered		37.f) Did you accept this position? ☐ Yes ☐ No
38. Explain why you think you should not have been affected by the Reduction In Force. (Explanations could include: you were placed in the wrong retention group or sub-group, an error was made in the computation of your service computation date, competitive area was too narrow, improperly reached for separation from competitive level, an exception was made to the regular order of selection, the required number of days notice was not given; you believe you have assignment [bump or retreat] rights, or any other reasons. Please provide as much information as possible regarding each reason.)		

Part VII Whistleblowing Activity**INSTRUCTIONS**

Complete Parts VII and VIII of this form only if you believe the action you are appealing is based on whistleblowing activities.

39.a) Have you disclosed information that evidences a violation of any law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety?

☐ Yes (attach a copy or summary of disclosure) ☐ No

39.b) If yes, provide the name, title, and office address of the person to whom the disclosure was made

39.c) Date the disclosure was made (month, day, year)

40. If you believe the action you are appealing was... (please check appropriate box)

☐ Threatened

☐ Proposed

☐ Taken

☐ Not Taken

...because of a disclosure evidencing a violation of any law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, provide:

a) a chronology of facts concerning the action appealed; and

b) explain why you believe the action was based on whistleblowing activity and attach a copy of any documentary evidence which supports your statement.

41.a) Have you sought corrective action from the Office of Special Counsel concerning the action which you are appealing? ☐ Yes (attach a copy of your request to the Office of Special Counsel for corrective action) ☐ No	41.b) If yes, date(s) filed (month, day, year)
41.c) Place filed (location, number and street, city, state, and ZIP code)	
42. Have you received a written notice of your right to file this appeal from the Office of Special Counsel? ☐ Yes (attach a copy) ☐ No	
43.a) Have you already requested a stay from the Board of the action you are seeking to appeal? ☐ Yes (attach a copy) ☐ No	43.b) If yes, date requested (month, day, year)
43.c) Place filed (location, number and street, city, state, and ZIP code)	43.d) Has there been a decision? ☐ Yes (attach a copy) ☐ No

Part VIII Stay Request

INSTRUCTIONS

You may request a stay of a personnel action allegedly based on whistleblowing at any time after you become eligible to file an appeal with the Board under 5 C.F.R. 1209.5, but no later than the time limit set for the close of discovery in the appeal. The stay request may be filed prior to, simultaneous with, or after the filing of an appeal. When you file a stay request with the Board, you must

simultaneously serve it upon the agency's local servicing personnel office or the agency's designated representative. 5 C.F.R. 1209.8

If your stay request is being filed prior to filing an appeal with the Board, you must complete Parts I and II and items 41 through 43 above.

44. On separate sheets of paper, please provide the following. Please put your name and address at the top of each page.

a. A chronology of facts, including a description of the disclosure and the action taken by the agency (unless you have already supplied this information in Part VII above).

b. Evidence and/or argument demonstrating that the:

(1) action threatened, proposed, taken, or not taken is a personnel action, as defined in 5 C.F.R. 1209.4(a), and

(2) action complained of was based on whistleblowing, as defined in 5 C.F.R. 1209.4(b) (unless you have already supplied this information in Part VII above).

c. Evidence and/or argument demonstrating that there is a

substantial likelihood that you will prevail on the merits of your appeal of the personnel action.

d. Documentary evidence that supports your stay request.

e. Evidence and/or argument addressing how long the stay should remain in effect.

f. Certificate of service specifying how and when the stay request was served on the agency.

g. You may provide evidence and/or argument concerning whether a stay would impose extreme hardship on the agency.

Appendix II [Amended]

13. Appendix II to part 1201 is amended by adding the following new sentence after the first sentence of the first paragraph: "The facsimile numbers listed below are TDD-capable; however, calls will be answered by voice before being connected to the TDD."

14. Appendix II to part 1201 is amended at paragraph 1. by removing "10th Floor" and by adding in its place "Suite 1050."

15. Appendix II to part 1201 is amended at paragraph 5. by removing the phrase "730 Simms Street, suite 301, P.O. Box 25025, Denver, Colorado 80225-0025, Facsimile No.: (303) 231-5205" and by adding in its place "12567 W. Cedar Drive, Suite 100, Lakewood, Colorado 80228, Facsimile No.: (303) 969-5109."

16. Appendix II to part 1201 is amended by adding "V/TDD" before "Facsimile No." in each of the paragraphs 1. through 11

Appendix III [Amended]

17. Appendix III to part 1201 is amended under the heading "Atlanta Regional Office" by removing "Jacksonville, North Carolina" and by adding in its place "Charlotte, North Carolina" and by adding "Wilmington, North Carolina" after "Raleigh, North Carolina."

18. Appendix III to part 1201 is amended under the heading "Denver Field Office" by adding "Grand Junction, Colorado" after "Denver, Colorado" and by adding "Fargo, North Dakota" after "Bismarck, North Dakota."

19. Appendix III to part 1201 is amended under the heading "New York Field Office" by adding "San Juan, Puerto Rico" after "Newark, New Jersey"

20. Appendix III to part 1201 is amended under the heading "San Francisco Regional Office" by adding "Santa Barbara, California" after "San Diego, California."

Dated December 12, 1994

Robert E. Taylor,
Clerk of the Board

[FR Doc. 94-30889 Filed 12-16-94; 8:45 am]
BILLING CODE 7400-01-P

5 CFR Part 1203**Procedures for Review of Rules and Regulations of the Office of Personnel Management**

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board is amending its rules by adding "facsimile" and "commercial overnight delivery" as methods of filing and service in order to conform the requirements in this part to the method of filing and service requirements contained in the Board's rules at 5 CFR part 1201.

EFFECTIVE DATE: December 19, 1994.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, 202-653-7200.

SUPPLEMENTARY INFORMATION: The Board has previously amended its rules at 5 CFR part 1201 (Practices and procedures) to permit filing and service of appeals and other pleadings by facsimile (54 FR 53500) and by commercial overnight delivery (58 FR 36345). The Board is now amending its rules at 5 CFR part 1203 to specifically permit the same methods of filing and service for requests to review rules and regulations of the Office of Personnel Management under this part.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1203

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1203 as follows:

PART 1203—[AMENDED]

1. The authority citation for part 1203 continues to read as follows:

Authority: 5 U.S.C. 1204(a), 1204(f), and 1204(h)

§ 1203.13 [Amended]

2. Section 1203.13 is amended at paragraph (d) by revising the first sentence to read as follows: "Documents may be filed with the Office of the Clerk either by mail, by personal delivery, by facsimile, or by commercial overnight delivery." 2(a). Section 1203.13 is further amended at paragraph (d) by adding the following two new sentences at the end of the paragraph reading as follows:

If it was submitted by facsimile, the date of the facsimile is considered to be the filing date. If it was submitted by commercial overnight delivery, the date of filing is the date it was delivered to the commercial overnight delivery service.

§ 1203.13 Filing pleadings.

* * * * *
(d) * * *
* * * * *

§ 1203.14 [Amended]

3. Section 1203.14 is amended by revising paragraph (b) to read as follows:

§ 1203.14 Serving documents.

* * * * *

(b) *Method of serving documents.* Pleadings may be served on parties by mail, by personal delivery, by facsimile, or by commercial overnight delivery. Service by mail is accomplished by mailing the pleading to each party or representative, at the party's or representative's last known address. Service by facsimile is accomplished by transmitting the pleading by facsimile to each party or representative. Service by personal delivery or by commercial overnight delivery is accomplished by delivering the pleading to the business office or home of each party or representative and leaving it with the party or representative, or with a responsible person at that address. Regardless of the method of service, the party serving the document must submit to the Board, along with the pleading, a certificate of service as proof that the document was served on the other parties or their representatives. The certificate of service must list the names and addresses of the persons on whom the pleading was served, must state the date on which the pleading was served, must state the method (i.e., mail, personal delivery, facsimile, or commercial overnight delivery) by which service was accomplished, and must be signed by the person responsible for accomplishing service.

Dated December 12, 1994

Robert E. Taylor,
Clerk of the Board

[FR Doc. 94-30890 Filed 12-16-94; 8:45 am]
BILLING CODE 7400-01-P

5 CFR Part 1204**Availability of Official Information**

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board is amending its rules to change the designation of the official with whom appeals of denials of Freedom of Information Act requests are to be filed.

EFFECTIVE DATE: December 19, 1994

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, 202-653-7200.

SUPPLEMENTARY INFORMATION: In the recent reorganization of its headquarters offices, the Board abolished the position of Executive Director. Under the Board's rules at 5 CFR part 1204, the Executive

Director was the official designated to decide appeals of denials of Freedom of Information Act requests. Under the new Board headquarters organization, the Chairman decides such appeals. Accordingly, the Board is amending its rules at 5 CFR part 1204 to designate the Chairman as the official with whom appeals of denials of Freedom of Information Act requests are to be filed.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1204

Freedom of Information,
Administrative practice and procedure,
Privacy.

Accordingly, the Board amends 5 CFR part 1204 as follows:

PART 1204—[AMENDED]

1. The authority citation for part 1204 continues to read as follows:

Authority: 5 U.S.C. 552 and 1204, Pub. L. 99-570 and EO 12600.

§ 1204.21 [Amended]

2. Section 1204.21 is amended by deleting "Executive Director" in the second sentence and by adding in its place "Chairman."

Dated: December 12, 1994.

Robert E. Taylor,
Clerk of the Board.

[FR Doc. 94-30893 Filed 12-16-94; 8:45 am]

BILLING CODE 7400-01-P

5 CFR Part 1205

Privacy Act Regulations

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board is amending its rules to change the designation of the official with whom appeals of denials of requests for amendment of records under the Privacy Act are to be filed.

EFFECTIVE DATE: December 19, 1994.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, 202-653-7200.

SUPPLEMENTARY INFORMATION: In the recent reorganization of its headquarters offices, the Board abolished the position of Executive Director. Under the Board's rules at 5 CFR part 1205, the Executive Director was the official designated to decide appeals of denials of requests for amendment of records under the Privacy Act. Under the new Board headquarters organization, the Chairman decides such appeals. Accordingly, the Board is amending its

rules at 5 CFR part 1205 to designate the Chairman as the official with whom appeals of denials of requests for amendment of records under the Privacy Act are to be filed.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1205

Administrative practice and procedure, Government employees, Privacy.

Accordingly, the Board amends 5 CFR part 1205 as follows:

PART 1205—[AMENDED]

1. The authority citation for part 1205 continues to read as follows:

Authority: 5 U.S.C. 552a and 1204.

§ 1205.31 [Amended]

2. Section 1205.31 is amended by removing "Executive Director" in paragraph (a) and by adding in its place "Chairman."

§ 1205.32 [Amended]

2. Section 1205.32 is amended by removing "Executive Director" each place it appears in paragraphs (a), (b), and (c) and by adding in its place "Chairman."

Dated: December 12, 1994.

Robert E. Taylor,
Clerk of the Board.

[FR Doc. 94-30894 Filed 12-16-94; 8:45 am]

BILLING CODE 7400-01-P

5 CFR Part 1209

Practices and Procedures for Appeals and Stay Requests of Personnel Actions Allegedly Based on Whistleblowing

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board is amending its rules to clarify the place of filing requirement for stay requests of personnel actions allegedly based on whistleblowing.

EFFECTIVE DATE: December 19, 1994.

FOR FURTHER INFORMATION CONTACT: Robert E. Taylor, Clerk of the Board, 202-653-7200.

SUPPLEMENTARY INFORMATION: On March 30, 1994 (59 FR 14739), the Board published a revision to its rules at 5 CFR part 1201, appendix II and appendix III, to reflect the realignment of its regional office structure into six regional and five field offices. In the "SUPPLEMENTARY INFORMATION" explaining that revision, the Board stated in part:

"Appeals and related matters will continue to be filed with either the regional or field office having geographic jurisdiction." The Board is now amending its rules at 5 CFR part 1209 by adding "or field" after "regional" in §§ 1209.8, 1209.9, and 1209.10 to clarify the place of filing requirement for stay requests of personnel actions allegedly based on whistleblowing.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1209

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends 5 CFR part 1209 as follows:

PART 1209—[AMENDED]

1. The authority citation for part 1209 continues to read as follows:

Authority: 5 U.S.C. 1204, 1221, 2302(b)(8), and 7701.

2. Section 1209.8 is amended by adding "or field" after "regional" in paragraph (b), in the first sentence of paragraph (c), and in paragraph (d).

3. Section 1209.9 is amended by adding "or field" after "regional" in paragraph (c)(1).

4. Section 1209.10 is amended by adding "or field" after "regional" in paragraph (b)(1).

Dated: December 12, 1994.

Robert E. Taylor,
Clerk of the Board.

[FR Doc. 94-30891 Filed 12-16-94; 8:45 am]

BILLING CODE 7400-01-P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 32, and 35

RIN: 3150-AD69

Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; Correction.

SUMMARY: This document corrects a final rule, published in the *Federal Register* on December 2, 1994 (59 FR 61767), that amends the regulations for the medical use of byproduct material. This action is necessary to correct language in the preamble to reflect regulatory text, remove an obsolete cross-reference, and specify a date certain in document text.