

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.

EFFECTIVE DATE: January 1, 1995.

ADDRESSES: Copies of the public record, including the final regulatory analysis and any public comments received on the proposed rule, may be examined and copied for a fee in the Commission's Public Document Room at 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Anthony N. Tse, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6233.

SUPPLEMENTARY INFORMATION:

1. On page 61777, the third column, in the third paragraph of the discussion under the heading *Section 35.981 Training for Experienced Nuclear Pharmacists*, the words "on or before (the date of publication in the *Federal Register*)" should read "before December 2, 1994,".

2. On page 61781, in § 32.72(b)(4), the words "(the date of publication in the *Federal Register*)" should read "December 2, 1994,".

3. On page 61785, § 35.415(a)(1) is corrected to read as follows:

§ 35.415 Safety precautions.

(a) * * *

(1) Not quarter the patient or the human research subject in the same room with an individual who is not receiving radiation therapy unless the licensee can demonstrate compliance with the requirements of § 20.1301(a) of this chapter at a distance of 1 meter from the implant;

* * * * *

4. On page 61787, in § 35.981, the words "(the date of publication in the *Federal Register*)" should read "December 2, 1994,".

Dated at Rockville, Maryland, this 13th day of December, 1994.

For the Nuclear Regulatory Commission,
Michael T. Lesar,
Chief, Rules Review Section, Rules Review
and Directives Branch.

[FR Doc. 94-31071 Filed 12-16-94; 8:45 am]

BILLING CODE 7590-01-P

SUMMARY: The Board of Governors of the Federal Reserve System (Board of Governors) is amending a provision of the Uniform Rules of Practice and Procedure adopted by the Board. The final rule is intended to clarify that the rules' provisions relating to *ex parte* communications conform to the requirements of the Administrative Procedure Act (APA). In particular, the amendment would clarify that the *ex parte* provisions do not apply to intra-agency communications, which are governed by a separate provision of the Administrative Procedure Act.

EFFECTIVE DATE: January 18, 1995.

FOR FURTHER INFORMATION CONTACT: Katherine H. Wheatley, Assistant General Counsel, Legal Division (202/452-3779), or Ann Marie Kohlligian, Senior Counsel, Division of Banking Supervision and Regulation (202/452-3528). For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION:

I. Background

In August 1991, the Board of Governors adopted the Uniform Rules of Practice and Procedure (Rules) (56 FR 38048, Aug. 9, 1991). The Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), Office of Thrift Supervision (OTS) and National Credit Union Administration (NCUA) have also adopted the Rules (OCC, 56 FR 38024, Aug. 9, 1991; FDIC, 56 FR 37968, Aug. 9, 1991; OTS, 56 FR 38302, Aug. 12, 1991; and NCUA, 56 FR 37762, Aug. 8, 1991). The Board of Governors is amending one aspect of the Rules relating to *ex parte* communications to clarify that the Rules parallel the requirements of the Administrative Procedure Act. The other agencies have proposed or are considering proposing a similar amendment (FDIC, 59 FR 60921, Nov. 29, 1994; OTS, 59 FR 62354, Dec. 5, 1994). The Board of Governors issued this amendment as a proposed rule on November 22, 1994 (59 FR 60094, Nov. 22, 1994). It is now adopting the rule in the form proposed.

Currently, § 263.9 of the Rules prohibits "a party, his or her counsel, or another interested person" from making an *ex parte* communication to the Board or other decisional official concerning the merits of an adjudicatory proceeding. When the Rules were proposed and adopted in 1991, the joint notice of proposed rulemaking (56 FR 27790, 27793, June 17, 1991) explained that the proposed rule regarding *ex parte* communications "adopts the rules and procedures set forth in the APA

regarding *ex parte* communications." There was no intention at that time to impose a rule more restrictive than that imposed by the APA itself.

The APA contains two provisions relating to communications with agency decision-makers. The APA's *ex parte* communication provision restricts communications between "interested person[s] outside the agency" and the agency head, the administrative law judge (ALJ), or the agency decisional employees. 5 U.S.C. 557(d) (emphasis added). *Intra-agency* communications are governed by the APA's separation of functions provision, 5 U.S.C. 554(d). That section prohibits investigative or prosecutorial personnel at an agency from "participat[ing] or advis[ing] in the decision, recommended decision, or agency review" of an adjudicatory matter pursuant to section 557 of the APA except as witness or counsel. The same separation of function provision provides that the ALJ in an adjudicatory matter may not consult any party on a fact in issue unless the other parties have an opportunity to participate. 5 U.S.C. 554(d)(1). The separation of functions provision does not prohibit agency investigatory or prosecutorial staff from seeking the amendment of a notice or the settlement or termination of a proceeding.

The rule as proposed and adopted in 1991, however, did not mention the separation of functions concept explicitly, and appeared to apply the *ex parte* communication prohibition to all communications concerning the merits of an adjudicatory proceeding between the agency head, ALJ or decisional personnel on the one hand, and any "party, his or her counsel, or another person interested in the proceeding" on the other. The Board of Governors does not interpret this provision as limiting agency enforcement staff's ability to seek approval of amendments to or terminations of existing enforcement actions. As drafted, however, the provision could be misinterpreted to expand the *ex parte* communication prohibition beyond the scope of the APA. The Board of Governors did not intend this result.

The amendment clarifies that the regulation is intended to conform to the provisions of the APA by limiting the prohibition on *ex parte* communications to communications to or from "interested persons outside the agency," 5 U.S.C. 557(d), and by incorporating explicitly the APA's separation of functions provisions, 5 U.S.C. 554(d). This approach is also consistent with the most recent Model Adjudication Rules prepared by the Administrative Conference of the United States.

FEDERAL RESERVE SYSTEM

12 CFR Part 263

[Docket No. R-0855]

Uniform Rules of Practice and Procedure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.