

Merit Systems Protection Board

§ 1204.2

filing a petition for enforcement with the Office of the Clerk of the Board and by serving a copy of the petition on each party to the regulation review. The request may be filed in electronic form, provided the requirements of §1201.14 are satisfied. The petition must include specific reasons why the petitioning party believes that there has been a failure to comply with the Board's order.

(b) The Board will take all action necessary to determine whether there has been compliance with its final order. If it determines that there has been a failure to comply with the order, it will take actions necessary to obtain compliance.

(c) Where appropriate, the Board may initiate the enforcement procedures described in 5 CFR 1201.183(c).

[54 FR 23632, June 2, 1989, as amended at 68 FR 59864, Oct. 20, 2003; 69 FR 57631, Sept. 27, 2004]

PART 1204—AVAILABILITY OF OFFICIAL INFORMATION

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AUTHORITY: 5 U.S.C. 552 and 1204, Pub. L. 99-570, Pub. L. 104-231, and E.O. 12600.

SOURCE: 64 FR 51039, Sept. 21, 1999, unless otherwise noted.

Subpart A—Purpose and Scope

§ 1204.1 Purpose.

This part implements the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, by stating the procedures to follow when requesting information

from the Board, and by stating the fees that will be charged for that information.

§ 1204.2 Scope.

(a) For the purpose of this part, the term *record* and any other term used in reference to information includes any information that would be a Board record subject to the requirements of 5 U.S.C. 552 when maintained by the Board in any format including an electronic format. All written requests for information that are not processed under part 1205 of this chapter will be processed under this part. The Board may continue, without complying with this part, to furnish the public with the information it has furnished in the regular course of performing its official duties, unless furnishing the information would violate the Privacy Act of 1974, 5 U.S.C. 552a, or another law.

(b) When the subject of the record, or the subject's representative, requests a record from a Privacy Act system of records, as that term is defined by 5 U.S.C. 552a(a)(5), and the Board retrieves the record by the subject's name or other personal identifier, the Board will handle the request under the procedures and fees shown in part 1205 of this chapter. When a third party requests access to those records, without the written consent of the subject of the record, the Board will handle the request under this part.

(c) When a party to an appeal requests a copy of a tape recording, video tape, or transcript (if one has been prepared) of a hearing that the Board or a judge held under part 1201 or part 1209 of this chapter, the Board will handle the request under §1201.53 of this chapter. When someone other than a party to the appeal makes this request, the Board will handle the request under this part.

(d) In accordance with 5 U.S.C. 552(a)(2), the Board's final opinions and orders (including concurring and dissenting opinions), those statements of policy and interpretations adopted by the Board and that are not published in the FEDERAL REGISTER, administrative staff manuals and instructions to staff that affect a member of the public, and agency records processed and disclosed in response to a FOIA request that the