



Issue Date: 11 March 2022

Case No. 2022-MIS-00002

In the Matter of:

ONLINE E-FILINGS: WHEN MADE—AND WHEN THE “LAST DAY” OF A FILING PERIOD ENDS

ADMINISTRATIVE NOTICE

The U.S. Department of Labor, Office of Administrative Law Judges (OALJ) and the Board of Alien Labor Certification Appeals (BALCA) currently accept e-filing through (1) OALJ’S e-mail e-filing systems described at www.dol.gov/agencies/oalj/FILING_BY_EMAIL, or (2) the Department’s e-file/e-serve system (EFS) at efile.dol.gov. This Administrative Notice provides clarity on two timing issues relating to e-filing.

First, an e-filing will be recorded in the OALJ or BALCA docket as made when it is received by OALJ’s e-mail e-filing system, or through efile.dol.gov, for purposes of 29 C.F.R. § 18.30(b)(2). In practical terms, this means that an e-filing may be made from 12:01 a.m. up to 11:59:59 p.m. on any given day (except those times when a system is offline for maintenance).

Second, Rule 6(a)(4)(A) of the Federal Rules of Civil Procedure will be used to set the cut-off time at midnight when making a “last day” filing through an e-filing. Use of Rule 6(a)(4)(A) is necessary because current 29 C.F.R. § 18.32(a)(2) does not address e-filings.¹ *See* 29 C.F.R., § 18.10(a) (FRCP applies in any situation not provided for or controlled by these the Part 18 rules, or a governing statute, regulation, or executive order). Rule 6(a)(4)(A) provides that “the last day ends . . . for electronic filing, at midnight in the court’s time zone.” The “court’s time zone” in the context of OALJ and BALCA adjudications means the local time of the National Office or the District Office to which the presiding administrative law judge (ALJ) is assigned. For cases that have not yet been assigned to a presiding ALJ, the local time of the National Office, which is in the Eastern time zone, will be used.

¹ *See Notice of Proposed Rulemaking, 29 C.F.R. Part 18*, 86 Fed. Reg. 1862, 1865 (Jan. 11, 2021) (“The current § 18.32 is modeled on FRCP 6, but does not address electronic filing.”). *See also Final Rule, 29 C.F.R. Part 18*, 80 Fed. Reg. 28767, 28775 (May 19, 2015) (the 2015 amendments to Part 18 focused on traditional filing and service, and did not address e-filing). The Department’s pending Notice of Proposed Rulemaking proposes to amend this regulation to provide that, when a document is filed electronically, the “last day” goes through 11:59:59 p.m. in the time zone of the presiding judge’s office—or, for cases not yet assigned to an OALJ national or district office—in the time zone of the office of the Chief Administrative Law Judge.

These clarifications apply only to e-filings made through OALJ's e-mail e-filing system or through efile.dol.gov. They do not apply to filings made through the other means of filing permitted by 29 C.F.R. § 18.30(b)(3) (mail, courier service, hand delivery, or facsimile). These clarifications are also subject to any specific order of the presiding ALJ.

SO NOTICED.

STEPHEN R. HENLEY
Chief Administrative Law Judge