

§ 164.5

(c) Whenever any information or data is required to be produced or examined and any party to the proceeding claims that such information is a trade secret or commercial or financial information, other than information relating to the formulas of a pesticide, the Administrative Law Judge, the Presiding Officer, or the Environmental Appeals Board may require production or testimony *in camera* and sealed to all but the parties.

(d) All orders, decisions, or other documents made or signed by the Administrative Law Judge, the Presiding Officer, or the Environmental Appeals Board shall be filed with the hearing clerk. The hearing clerk shall immediately serve all parties with a copy of such order, decision, or other document.

[38 FR 19371, July 20, 1973, as amended at 57 FR 5342, Feb. 13, 1992]

§ 164.5 Filing and service.

(a) All documents or papers required or authorized to be filed, shall be filed with the hearing clerk, except as provided otherwise in this part. At the same time that a party files documents or papers with the clerk, it shall serve upon all other parties copies thereof, with a certificate of service on each document or paper, including those filed with the hearing clerk. If filing is accomplished by mail addressed to the clerk, filing shall be deemed timely if the papers are postmarked on the due date except as to initial filings requesting a public hearing or responding to a notice of intent to hold a hearing, in which case such filings must be received by the hearing clerk either within the time required by statute or by the notice of intent to hold a hearing.

(b) Each document filed, other than papers commencing a proceeding, shall contain the FIFRA docket number and, if the document affects less than all of the registrations included under that docket number, the registration number or file symbol of each product which is the subject of the document.

(c) In addition to copies served on all other parties, each party shall file an original and two copies of all papers with the hearing clerk.

40 CFR Ch. I (7-1-02 Edition)

§ 164.6 Time.

(a) *Computation.* In computing any period of time prescribed or allowed by these rules, except as otherwise provided, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and legal holidays shall be included in computing the time allowed for the filing of any document or paper, except that when such time expires on a Saturday, Sunday, or legal holiday, such period shall be extended to include the next following business day.

(b) *Enlargement.* When by these rules or by order of the Administrative Law Judge, the Presiding Officer, or the Environmental Appeals Board, an act is required or allowed to be done at or within a specified time, the Administrative Law Judge (before his initial decision is filed), or the Presiding Officer (before his recommended decision is filed), or the Environmental Appeals Board (after the Administrative Law Judge's initial decision or the presiding officer's recommended decision is filed), for cause shown may at any time in their discretion: with or without motion or notice, order the period enlarged if request therefor, which may be made *ex parte*, is made before the expiration of the period originally prescribed or as extended by a previous order; or on motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect. In this connection, consideration shall be given to the fact that, under the provisions of the act, the Administrator must issue his order not later than 90 days after the completion of the hearing, unless all parties agree by stipulation to extend this period of time pursuant to § 164.103.

(c) *Additional time after service by mail.* A prescribed period of time within which a party is required or permitted to do an act shall be computed from the time of service, except that when the service is made by mail, 3 days shall be added to the prescribed period. Such addition for service by mail shall not apply in the case of filing initial requests for hearings or responding to a notice of intent to hold a hearing, in which cases statutory filing times will