

Environmental Protection Agency

§ 305.8

any CBI claim with respect to the business information in the pleading or document.

(2) Any pleading or document containing CBI shall be filed in a double envelope. The outside envelope should not mention that CBI is contained. The inside envelope shall specify the envelope contains CBI.

(3) For each original or copy of each pleading or document filed or served which contains CBI, the person shall submit two versions.

(i) One version must be complete. In that version, the person shall mark the specific information claimed as CBI pursuant to this section.

(ii) The CBI must be deleted in the second version, and all information claimed as CBI must be indicated in such version, as well as the nature of the information claimed as CBI, and the fact that another version containing the CBI has been filed pursuant to this section.

(4) The Hearing Clerk shall not accept for filing any CBI pleading or document which does not comply with the requirements of paragraphs (d)(2) and (3) of this section.

(5) All claims of CBI, and all information entitled to treatment as CBI, shall be governed by the provisions of 40 CFR part 2, subpart B, for CERCLA, as well as any other EPA regulatory provisions affecting the confidentiality of the information.

[58 FR 7706, Feb. 8, 1993, as amended at 59 FR 26, Jan. 3, 1994]

§ 305.6 Computation and extension of time.

(a) *Computation.* In computing any period of time described or allowed in this part, except as otherwise provided, the day of the event from which the designated period begins to run shall not be included. Saturdays, Sundays, and Federal legal holidays shall be included. When a stated time expires on a Saturday, Sunday, or Federal legal holiday, the stated time period shall be extended to include the next business day.

(b) *Extension of time.* The Presiding Officer, or Review Officer as appropriate, may grant an extension of time for the filing of any pleading, document or motion upon timely motion of

a party to the proceeding, for good cause shown, and after consideration of prejudice to other parties, or upon his own motion. Such a motion by a party may only be made after notice to all other parties, unless the movant can show good cause why serving notice is impracticable. The motion shall be filed in advance of the date on which the pleading, document or motion is due to be filed, unless the failure of a party to make timely motion for extension of time was the result of excusable neglect.

(c) *Service by mail.* Service of the Request for a Hearing is complete when the return receipt is signed by the Review Officer. Service of all other pleadings and documents is complete upon mailing. Where a pleading or document is served by mail, 5 days shall be added to the time allowed by this part for the filing of a responsive pleading or document.

§ 305.7 Ex parte discussion of proceeding.

At no time after the Request for a Hearing is referred to the Presiding Officer shall the Presiding Officer discuss *ex parte* the merits of the proceeding with any interested person outside the Agency, with any Agency staff member who performed a prosecutorial or investigative function in such proceeding or a factually related proceeding, or with any representative of such person. Any *ex parte* memorandum or other communication addressed to the Presiding Officer during the pendency of the proceeding and relating to the merits thereof, by or on behalf of any party, shall be regarded as an argument made in the proceeding and shall be served upon all other parties. Any other party shall be given the opportunity to reply to such memorandum or communication.

§ 305.8 Examination of documents filed.

(a) *Inspection of Documents.* Subject to the provisions of law restricting public disclosure of confidential information, any person may, during Agency business hours, inspect and copy any document filed in any proceeding.