



**ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

ORDER ADDRESSING PROCEDURES FOR REGISTRATION-RELATED APPEALS
UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Before the Environmental Appeals Board.

Per Curiam:

The Environmental Appeals Board (“Board”) exercises jurisdiction over appeals from decisions of Administrative Law Judges arising from refusals to register, cancellations of registration, changes of classification, or suspensions of registration of pesticides under section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”). 7 U.S.C. § 136d; 40 C.F.R. §§ 164.100-.111; *see also* 7 U.S.C. §§ 136a(c)(2)(B)(iv) (providing that a hearing “shall be conducted under section 136(d) of this title”), 136a-1(e)(3)(B)(iii)(III) (same).¹ Following an initial or accelerated decision by an Administrative Law Judge (“ALJ”) under FIFRA section 6, or certification of an interlocutory order for appeal, a party may file exceptions to the ALJ’s decision and an appeal with the Board. 40 C.F.R. §§ 164.100-.102. If, by contrast, an expedited hearing is held, the Presiding Officer must submit recommended findings and conclusions to the Board, and the parties are required to file any objections to the recommended findings and conclusions with the Board. *Id.* § 164.121(j)(3)-(4). The EPA Administrator has

¹ FIFRA civil penalty appeals are governed by 40 C.F.R. pt. 22. 40 C.F.R. § 22.1(a)(1).

delegated authority to the Board to issue final decisions in these cases. *Id.* §§ 164.2(g), .103, .122(a); *see id.* § 1.25(e).²

The regulations governing appeals under FIFRA section 6 require filing of documents with the hearing clerk and service on all other parties without specifying the manner of filing or service, *id.* § 164.5, they also do not provide any limitations on the length of appeal brief, *see id.* §§ 164.101, .102. This order addresses filing and service requirements for appeals under FIFRA section 6 and establishes word limitations on briefs filed in such appeals. This order supersedes all prior Board orders addressing registration-related appeals under FIFRA.

General Filing & Service Requirements.

Any document required to be filed with the hearing clerk pursuant to 40 C.F.R. §§ 164.100-.111 shall be filed with the Clerk of the Board. The Board encourages use of the EAB's e-Filing System.³ If filing by U.S. mail, hand delivery, or courier, parties shall follow the procedures set forth in 40 C.F.R. § 124.19(i)(2)(ii)-(iii). Parties and any amicus curiae must serve all documents filed with the Board on all other parties at the same time that the party or amicus curiae files documents with the Board. The Board authorizes parties and any amicus curiae to use email to fulfill their service obligations under 40 C.F.R. Part 164. *See* Board's standing Order on Electronic Service. Parties and amicus curiae must promptly file notices

² This delegation does not preclude the Board from referring an appeal under FIFRA section 6 to the EPA Administrator. 40 C.F.R. § 164.2(g).

³ The EAB's e-Filing System is available on the Board's website at: www.epa.gov/eab.

informing the Board and the other parties and amicus curiae of any changes in their email addresses.

Limitations Regarding Length of Filings.

The exceptions and appeal brief must not exceed 14,000 words in total and must be combined into a single document. Any responses to the appeal from other parties must not exceed 14,000 words. Filers may rely on the word-processing application used to determine the word count. In lieu of this word limitation, filers may instead comply with a thirty-page limit. Any other briefs including briefs from amicus curiae must not exceed 7,000 words or fifteen pages. Motions filed under 40 C.F.R. § 164.110 and responses thereto must not exceed 7,000 words or fifteen pages. Any other motions and responses thereto must not exceed 2,300 words or five pages. In advance of filing a motion, the filing parties must attempt to ascertain whether the other party(ies) concur(s) or object(s) to the motion and must indicate in the motion the attempt made and the response obtained. All motions must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support the motion. The table of contents, table of authorities, statement of compliance with the word limitation, and any exhibits do not count toward these word limitations or page limits.

The Board in its discretion may issue an order modifying these procedures as appropriate on a case-by-case basis, and the Board may revoke or amend this order at any time. This order creates no vested rights in any party.

So ordered.

Dated: September 29, 2025