

(4) Any method that provides any registered agent, officer, director, or agent in charge of any office of the person with actual notice of the document prior to the return date of the document.

(j) A witness subpoenaed by the OHA may be paid the same fees and mileage as paid to a witness in the district courts of the United States.

(k) If in the course of a proceeding a subpoena is issued at the request of a person other than an officer or agency of the United States, the witness fees and mileage shall be paid by the person who requested the subpoena. However, at the request of the person, the witness fees and mileage may be paid by the OHA if the person shows:

(1) The presence of the subpoenaed witness will materially advance the proceeding; and

(2) The person who requested that the subpoena be issued would suffer a serious hardship if required to pay the witness fees and mileage.

(l) If any person upon whom a subpoena or SRO is served pursuant to this section refuses or fails to comply with any provision of the subpoena or SRO, an action may be commenced in the appropriate United States District Court to enforce the subpoena or SRO.

(m) Documents produced in response to a subpoena shall be accompanied by the sworn certification, under penalty of perjury, of the person to whom the subpoena was directed or his authorized agent that:

(1) A diligent search has been made for each document responsive to the subpoena; and

(2) To the best of his knowledge, information, and belief each document responsive to the subpoena is being produced.

(n) Any information furnished in response to an SRO shall be accompanied by the sworn certification, under penalty of perjury, of the person to whom it was directed or his authorized agent who actually provides the information that:

(1) A diligent effort has been made to provide all information required by the SRO; and

(2) All information furnished is true, complete, and correct.

(o) If any document responsive to a subpoena is not produced or any information required by an SRO is not furnished, the certification shall include a statement setting forth every reason for failing to comply with the subpoena or SRO. If a person to whom a subpoena or SRO is directed withholds any document or information because of a claim of attorney-client or other privilege, the person submitting the

certification required by paragraph (m) or (n) of this section also shall submit a written list of the documents or the information withheld indicating a description of each document or information, the date of the document, each person shown on the document as having received a copy of the document, each person shown on the document as having prepared or been sent the document, the privilege relied upon as the basis for withholding the document or information, and an identification of the person whose privilege is being asserted.

(p) If testimony is taken pursuant to a subpoena, the Director shall determine whether the testimony shall be recorded and the means by which the testimony is recorded.

(q) A witness whose testimony is recorded may procure a copy of his testimony by making a written request for a copy and paying the appropriate fees. However, the Director may deny the request for good cause. Upon proper identification, any witness or his attorney has the right to inspect the official transcript of the witness' own testimony.

(r) The Director may sequester any person subpoenaed to furnish documents or give testimony. Unless permitted by the Director, neither a witness nor his attorney shall be present during the examination of any other witnesses.

(s) A witness whose testimony is taken may be accompanied, represented and advised by his attorney as follows:

(1) Upon the initiative of the attorney or witness, the attorney may advise his client, in confidence, with respect to the question asked his client, and if the witness refuses to answer any question, the witness or his attorney is required to briefly state the legal grounds for such refusal; and

(2) If the witness claims a privilege to refuse to answer a question on the grounds of self-incrimination, the witness must assert the privilege personally.

(t) The Director shall take all necessary action to regulate the course of testimony and to avoid delay and prevent or restrain contemptuous or obstructionist conduct or contemptuous language. OHA may take actions as the circumstances may warrant in regard to any instances where any attorney refuses to comply with directions or provisions of this section.

#### § 1003.9 General filing requirements.

(a) *Purpose and scope.* The provisions of this section shall apply to all documents required or permitted to be filed with the OHA. One copy of each

document must be filed with the original, except as provided in paragraph (f) of this section. A telefax filing of a document will be accepted only if immediately followed by the filing by mail or hand-delivery of the original document.

(b) *Signing.* Any document that is required to be signed, shall be signed by the person filing the document. Any document filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative. (A false certification is unlawful under the provisions of 18 U.S.C. 1001.) The signature by the person or duly authorized representative constitutes a certificate by the signer that the signer has read the document and that to the best of the signer's knowledge, information and belief formed after reasonable inquiry, the document is well grounded in fact, warranted under existing law, and submitted in good faith and not for any improper purpose such as to harass or to cause unnecessary delay. If a document is signed in violation of this section, OHA may impose the sanctions specified in section 1003.3 and other sanctions determined to be appropriate.

(c) *Labeling.* An application, petition, or other request for action by the OHA should be clearly labeled according to the nature of the action involved both on the document and on the outside of the envelope in which the document is transmitted.

(d) *Obligation to supply information.* A person who files an application, petition, appeal or other request for action is under a continuing obligation during the proceeding to provide the OHA with any new or newly discovered information that is relevant to that proceeding. Such information includes, but is not limited to, information regarding any other application, petition, appeal or request for action that is subsequently filed by that person with any DOE office.

(e) *The same or related matters.* A person who files an application, petition, appeal or other request for action by the OHA shall state whether, to the best knowledge of that person, the same or related issue, act or transaction has been or presently is being considered or investigated by any other DOE office, other federal agency, department or instrumentality; or by a state or municipal agency or court; or by any law enforcement agency, including, but not limited to, a consideration or investigation in connection with any proceeding described in this part. In addition, the person shall state whether contact has been made by the person or