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§ 13.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefor not less than 15 days before the date fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. Such request shall specify any documents to be produced and shall designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witnesses to be found.

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 13.8. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

(f) A party or the individual to whom the subpoena is directed may file with the ALJ a motion to quash the subpoena within ten days after service or on or before the time specified in the subpoena for compliance if it is less than ten days after service.

§ 13.24 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with no one present except persons designated by the ALJ;

(6) That the contents of discovery or evidence be sealed;

(7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That a trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the ALJ.

§ 13.25 Fees.

The party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the authority, a check for witness fees and mileage need not accompany the subpoena.

§ 13.26 Filing and service of papers.

(a) *Filing.* (1) Unless otherwise provided by order, all filings must be made as electronic submissions in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions may be found in the E-Filing Guidance and on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>. If a filing contains sections of information or electronic formats that may not be transmitted electronically for security or other reasons, portions not containing those sections will be transmitted electronically to the E-Filing system. In addition, optical

storage media (OSM) containing the entire filing must be physically delivered or mailed. In such cases, the submitter does not need to apply to the Commission for an exemption to deviate from the requirements in paragraph (a) of this section.

(2) Electronic transmission exemption. The ALJ may relieve a participant who is filing electronic documents of the transmission requirements in paragraph (a) of this section. Such a participant will file electronic documents by physically delivering or mailing an OSM containing the documents. The electronic formatting requirement in paragraph (a) of this section must be met.

(3) Electronic document exemption. The ALJ may relieve a participant of both the electronic (computer file) formatting and transmission requirements in paragraph (a)(1) of this section. Such a participant will file paper documents physically or by mail to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Filing by mail is complete upon deposit in the mail.

(4) Requesting an exemption. A participant seeking an exemption under paragraphs (a)(2) or (a)(3) of this section must submit the exemption request with its first filing in the proceeding. In the request, the requestor must show good cause as to why it cannot file electronically. The filer may not change its formats and delivery methods for filing until a ruling on the exemption request is issued. Exemption requests submitted after the first filing in the proceeding will be granted only if the requestor shows that the interests of fairness so require.

(5) Every pleading and document filed in the proceeding shall contain a caption setting forth the title of the action, the case number assigned by the presiding officer, and a designation of the document (e.g., motion to quash subpoena).

(6) Filing is complete when the filer performs the last act that it must perform to submit a document, such as hitting the send/submit/transmit button for an electronic transmission or depositing the document, in its entirety, in a mailbox.

(b) *Signatures*. The original of each document must be signed by the participant or its authorized representative, or by an attorney having authority with respect to it. The document must state the capacity of the person signing; his or her address, phone number, and e-mail address; and the date of signature. The signature of a person signing a pleading or other similar document submitted by a participant is a representation that the document has been subscribed in the capacity specified with full authority, that he or she has read it and knows the contents, that to the best of his or her knowledge, information, and belief the statements made in it are true, and that it is not interposed for delay. The signature of a person signing an affidavit or similar document, which should be submitted in accord with the form outlined in 28 U.S.C. 1746, is a representation that, under penalty of perjury, the document is true and correct to the best of that individual's knowledge and belief. If a document is not signed, or is signed with intent to defeat the purpose of this section, it may be struck.

(1) An electronic document must be signed using a participant's or a participant representative's digital ID certificate. Additional signatures can be added to the electronic document, including to any affidavits that accompany the document, by a typed-in designation that indicates the signer understands and acknowledges that he or she is assenting to the representations in paragraph (d) of this section.

(i) When signing an electronic document using a digital ID certificate, the signature page for the electronic document should contain a typed signature block that includes the phrase "Signed (electronically) by" typed onto the signature line; the name and the capacity of the person signing; the person's address, phone number, and e-mail address; and the date of signature.

(ii) If additional individuals need to sign an electronic document, including any affidavits that accompany the document, these individuals must sign by inserting a typed signature block in the electronic document that includes the phrase "Executed in Accord with 10 CFR 2.304(d)" or its equivalent typed on the signature line as well as the

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name and the capacity of the person signing; the person's address, phone number, and e-mail address; and the date of signature to the extent any of these items are different from the information provided for the digital ID certificate signer.

(2) Paper documents must be signed in ink.

(c) *Service.* A participant filing a document with the ALJ shall at the time of filing, serve a copy of such document on every other participant. Service upon any participant of any document other than those required to be served as prescribed in §13.8 shall be made electronically to the E-Filing system. When a participant is represented by a representative, service shall be made upon such representative in lieu of the actual participant. Upon an order from the ALJ permitting alternative filing methods under paragraphs (a)(2) or (a)(3) of this section, service may be made by physical delivery or mail. As to each participant that cannot serve electronically, the ALJ shall require service by the most expeditious means permitted under this paragraph that are available to the participant, unless the ALJ finds that this requirement would impose undue burden or expense on the participant.

(1) Unless otherwise provided in this paragraph, a participant will serve documents on the other participants by the same method that those participants filed.

(2) A participant granted an exemption under paragraph (a)(2) of this section will serve the participants in the proceeding that filed electronically by physically delivering or mailing an OSM containing the electronic document.

(3) A participant granted an exemption under paragraph (a)(3) will serve the other participants in the proceeding by physically delivering or mailing a paper copy.

(4) A certificate of service stating the names and addresses of the persons served as well as the method and date of service must accompany any paper served upon participants to the proceeding.

(5) Proof of service, which states the name and address of the person served as well as the method and date of serv-

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ice, may be made as required by law, by rule, or by order of the Commission.

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§ 13.27 Computation of time.

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday or Sunday, a Federal legal holiday at the place where the action or event is to occur, or a day on which, because of emergency closure of the federal government in Washington, DC, NRC Headquarters does not open for business, in which event it includes the next day that is not a Saturday, Sunday, holiday or emergency closure.

(b) When the period of time allowed is less than seven (7) days, intermediate Saturdays, Sundays, Federal legal holidays, and emergency closures shall be excluded from the computation.

(c) Whenever an action is required within a prescribed period by a document served pursuant to §13.26, no additional time is added to the prescribed period except in the following circumstances:

(1) If a notice or document is served upon a participant, by first-class mail only, three (3) calendar days will be added to the prescribed period for all the participants in the proceeding.

(2) If a notice or document is served upon a participant, by express mail or other expedited service only, two (2) calendar days will be added to the prescribed period for all the participants in the proceeding.

(3) If a document is to be served by multiple service methods, such as partially electronic and entirely on an OSM, the additional number of days is computed according to the service method used to deliver the entire document, excluding courtesy copies, to all of the other participants in the proceeding. The presiding officer may determine the calculation of additional days when a participant is not entitled to receive an entire filing served by multiple methods.

(4) In mixed service proceedings where all participants are not using the same filing and service method, the