

§ 209.5

supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor; however, *person*, when used to describe an entity that FRA alleges to have committed a violation of the provisions of law formerly contained in the Hazardous Materials Transportation Act or contained in the Hazardous Materials Regulations, has the same meaning as in 49 U.S.C. 5102(9) (formerly codified at 49 App. U.S.C. 1802(11)), i.e., an individual, firm, co-partnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof, or government, Indian tribe, or authority of a government or tribe when offering hazardous material for transportation in commerce or transporting hazardous material to further a commercial enterprise, but such term does not include the United States Postal Service or, for the purposes of 49 U.S.C. 5123-5124 (formerly contained in sections 110 and 111 of the Hazardous Materials Transportation Act and formerly codified at 49 App. U.S.C. 1809-1810), a department, agency, or instrumentality of the Federal Government.

Pleading means any written submission setting forth claims, allegations, arguments, or evidence.

Presiding Officer means any person authorized to preside over any hearing or to make a decision on the record, including an administrative law judge.

Railroad means any form of non-highway ground transportation that runs on rails or electro-magnetic guideways, including (i) commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979; and (ii) high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but does not include rapid transit operations in an urban area that are not

49 CFR Ch. II (10-1-10 Edition)

connected to the general railroad system of transportation.

Railroad carrier means a person providing railroad transportation.

Respondent means a person upon whom FRA has served a notice of probable violation, notice of investigation, or notice of proposed disqualification.

[59 FR 43676, Aug. 24, 1994, as amended at 71 FR 77294, Dec. 26, 2006; 73 FR 72199, Nov. 26, 2008]

§ 209.5 Service.

(a) Each order, notice, or other document required to be served under this part shall be served personally or by registered or certified mail, except as otherwise provided herein.

(b) Service upon a person's duly authorized representative constitutes service upon that person.

(c) Service by registered or certified mail is complete upon mailing. An official United States Postal Service receipt from the registered or certified mailing constitutes prima facie evidence of service.

(d) Service of requests for admission and motions may be made by first-class mail, postage prepaid.

(e) Each pleading must be accompanied by a certificate of service specifying how and when service was made.

[42 FR 56742, Oct. 28, 1977, as amended at 54 FR 42906, Oct. 18, 1989]

§ 209.6 Requests for admission.

(a) A party to any proceeding under subpart B, C, or D of this part may serve upon any other party written requests for the admission of the genuineness of any relevant documents identified within the request, the truth of any relevant matters of fact, and the application of law to the facts as set forth in the request.

(b) Each matter of which an admission is requested shall be deemed to be admitted unless, within 30 days after receipt of the request, the party to whom the request is directed serves upon the party requesting the admission a written answer under oath or objection addressed to the matter, signed by the party.

(c) The sworn answer shall specifically admit or deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit