

§ 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 or deny the matter. If an objection is made, the reasons therefor shall be stated.

(d) Any matter admitted under this section is conclusively established unless the presiding official permits withdrawal or amendment of the admission for good cause shown.

(e) Upon motion, the presiding officer may order any party to respond to a request for admission.

[54 FR 42906, Oct. 18, 1989]

§ 209.7 Subpoenas; witness fees.

(a) The Chief Counsel may issue a subpoena on his or her own initiative in any matter related to enforcement of the railroad safety laws. However, where a proceeding under subpart B, C, or D of this part has been initiated, only the presiding officer may issue subpoenas, and only upon the written request of any party to the proceeding who makes an adequate showing that the information sought will materially advance the proceeding.

(b) A subpoena may require attendance of a witness at a deposition or hearing or the production of documentary or other tangible evidence in the possession or control of the person served, or both.

(c) A subpoena may be served personally by any person who is not an interested person and is not less than eighteen (18) years of age, or by certified or registered mail.

(d) Service of a subpoena shall be made by delivering a copy of the subpoena in the appropriate manner, as set forth below. Service of a subpoena requiring attendance of a person is not complete unless delivery is accompanied by tender of fees for one day's attendance and mileage as specified by paragraph (f) of this section. However, when a subpoena is issued upon the request of any officer or agency of the United States, fees and mileage need not be tendered at the time of service but will be paid by FRA at the place and time specified in the subpoena for attendance.

Delivery of a copy of the subpoena may be made:

- (1) To a natural person by:
 - (i) Handing it to the person;
 - (ii) Leaving it at his or her office with the person in charge thereof;
 - (iii) Leaving it at his or her dwelling place or usual place of abode with some person of suitable age and discretion then residing therein;
 - (iv) Mailing it by registered or certified mail to him or her at his or her last known address; or