

## Federal Maritime Commission

## § 502.206

provided for under § 502.201(f) or, if circumstances warrant, by such other procedure as the presiding officer may establish. Written replies to objections to interrogatories shall be permitted only to the extent that the discovery schedule previously established under § 502.201(d) is not delayed.

(c) *Scope, time, number and use.* (1) Interrogatories may relate to any matters which can be inquired into under § 502.201(h), and the answers may be used to the same extent as provided in § 502.209 for the use of the deposition of a party.

(2) Interrogatories may be sought after interrogatories have been answered, but the presiding officer, on motion of the deponent or the party interrogated, may make such protective order as justice may require.

(3) The number of interrogatories or of sets of interrogatories to be served is not limited except as justice requires to protect the party from annoyance, expense, embarrassment, or oppression.

(4) An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the presiding officer may order that such an interrogatory need not be answered until after designated discovery has been completed or until a prehearing conference or other later time.

(d) *Option to produce business records.* Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to

make copies, compilations, abstracts or summaries. [Rule 205.]

[49 FR 44369, Nov. 6, 1984; 49 FR 47394, Dec. 4, 1984]

### **§ 502.206 Production of documents and things and entry upon land for inspection and other purposes.**

(a) *Scope.* Any party may serve, pursuant to subpart H of this part, on any other party a request (1) to produce and permit the party making the request, or someone acting on its behalf, to inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, sound or video recordings, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of § 502.203(a) and which are in the possession, custody or control of the party upon whom the request is served; or (2) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property of any designated object or operation thereon, within the scope of § 502.203(a).

(b) *Procedure.* The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. Responses shall be served under the schedule established pursuant to § 502.201. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. Objections to requests for production of documents shall be resolved at the conference or meeting required under § 502.201(f) or, if circumstances warrant, by such other procedure as the presiding officer may establish.

## § 502.207

## 46 CFR Ch. IV (10–1–10 Edition)

Written replies to objections to requests for production of documents shall be permitted only to the extent that the discovery schedule previously established under § 502.201(d) is not delayed. [Rule 206.]

### § 502.207 Requests for admission.

(a)(1) A party may serve, pursuant to subpart H of this part, upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of § 502.203(a) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. Any party desiring to serve a request as provided by this section must comply with the applicable provisions of § 502.201.

(2)(i) Each matter of which an admission is requested shall be separately set forth.

(ii) The matter is admitted unless, within thirty (30) days after service of the request, or within such shorter or longer time as the presiding officer may allow pursuant to § 502.201, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or the party's attorney. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify the answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder.

(iii) An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that reasonable inquiry has been made and that the information known or readily obtainable is insufficient to enable the party to

admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; a party may, subject to the provisions of § 502.207(c) deny the matter or set forth reasons why it cannot be admitted or denied.

(3) The party who has requested admissions may request rulings on the sufficiency of the answers or objections. Rulings on such requests shall be issued at a conference called under § 502.201(f) or, if circumstances warrant, by such other procedure as the presiding officer may establish. Unless the presiding officer determines that an objection is justified, the presiding officer shall order that an answer be served. If the presiding officer determines that an answer does not comply with the requirements of this rule, the presiding officer may order either that the matter is admitted or that an amended answer be served. The presiding officer may, in lieu of these orders, determine that final disposition of the request be made at a prehearing conference or at a designated time prior to hearing.

(b) *Effect of admission.* Any matter admitted under this rule is conclusively established unless the presiding officer on motion permits withdrawal or amendment when the presentation of the merits of the action will be subverted thereby and the party who obtained the admission fails to satisfy the presiding officer that withdrawal or amendment will be prejudicial in maintaining the party's action or defense on the merits. Any admission made by a party under this rule is for the purpose of the pending proceeding only and is not an admission for any other purpose, nor may it be used against the party in any other proceeding.

(c) *Expenses on failure to admit.* If a party fails to admit the genuineness of any document or the truth of any matter as requested under paragraph (a) of this section, and if the party requesting the admission thereafter proves the genuineness of the document or the truth of the matter, that party may apply to the presiding officer for an order requiring the other party to pay