

provide for the application of class or commodity rates from or to intermediate points by incorporating in such tariffs the appropriate one (or more) of the rules below set forth, subject to the limitations of paragraph (a).

(a) Effective on and after July 20, 1939, an intermediate point rule may not be published so as to result in establishing from (or to, as the case may be) an

intermediate point, a rate from (or to) a more distant point unless the tariff contains specific routing instructions showing definitely in accordance with plan (1) of § 141.4 (k) the routes through the intermediate point over which the rate from (or to) the more distant point applies. [As amended by Order, July 9, 1938; 3 F.R. 1719]

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Subchapter B—Carriers by Motor Vehicle

PART 174—SURETY BONDS AND POLICIES OF INSURANCE

§ 174.6 *Bonds and insurance policies.* Each certificate or policy of insurance or surety bond filed with the Commission for approval must be for not less than the full limits of liability required under this part, *Provided, however,* That only corporations may qualify to act as surety. In each case in which the surety on any such bond is a surety company, such company must be one approved by the United States Treasury Department under the laws of the United States and the applicable rules and regulations governing bonding companies. (Secs. 211 (c), 215, 49 Stat. 554, 557; 49 U.S.C., Sup., 312 (c), 315) [As amended by Order, Nov. 22, 1938; 3 F.R. 2787]

CROSS REFERENCE: For Treasury Department list of surety companies acceptable on Federal bonds, see 31 CFR Part 226.

PART 182—COMMON AND CONTRACT CARRIERS OF PROPERTY

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§ 182.0 *Purpose of order.* The following rules and regulations be, and they are hereby, approved and prescribed, and from and after the 1st day of September, A. D. 1938, said rules and regulations shall be observed by motor carriers subject to the Motor Carrier Act, 1935; and by all other persons who are parties to

transfer proceedings arising thereunder.* [Order, July 1, 1938; 3 F.R. 2157]

*§§ 182.0 to 182.7, inclusive, issued under the authority contained in secs. 206, 209, 212 (b), 49 Stat. 551, 552, 555; 49 U.S.C., Sup., 306, 309, 312 (b).

§ 182.1 *General.* (a) As used herein the term "transfer" shall include all transactions, not included within sections 210a (b) and 213 of said Act, whether by purchase and sale, lease, contract to operate, or otherwise, whereby a right to operate as a motor carrier in interstate or foreign commerce arising out of the Motor Carrier Act, 1935, is transferred from one person to another. No transfer by means of an attempted pledge of any such rights or by any action purporting to foreclose a pledge upon or lien against any such rights, or by any attempt to levy execution against any such rights in satisfaction of any judgment or other claim against the holder thereof, shall be effective without compliance with these rules and regulations and the prior approval of the Commission as herein provided.

(b) The term "operating rights" as used herein includes the right to operate as a motor carrier in interstate or foreign commerce over a route or routes or within a specified territory, as authorized by the whole or any part of a certificate of public convenience and necessity or a permit issued by this Commission under the provisions of the Motor Carrier Act, 1935, or as authorized by those provisions of said Act under which a motor carrier may continue operations pending consideration of its application to the Commission for a certificate or permit, or as recognized in the second proviso of section 206 (a) by reason of the holding of an intrastate certificate of public convenience and necessity. An operating right so recog-

nized in the second proviso of section 206 (a) is hereinafter, for convenience, termed a "State operating right."

(c) For the purposes of transfer, operating rights may be divided as to routes or territories, if such routes or territories are clearly severable and if the division thereof does not permit the creation of duplicate motor carrier operating rights. No division of operating rights based upon the class or classes of property authorized to be transported will be approved, unless it appears to the satisfaction of the Commission that the part of the operating rights sought to be transferred is, because of a difference in the nature or type of the service rendered, clearly distinguishable and severable from the remaining operating rights.

(d) No attempted transfer of any operating right shall be effective except upon full compliance with these rules and regulations and until after the Interstate Commerce Commission has approved such transfer as herein provided (except as provided in § 182.7 (a)).*†

†In §§ 182.1 to 182.7, inclusive, the numbers to the right of the decimal point correspond with the respective rule numbers in Rules and regulations governing transfers of rights to operate as a motor carrier in interstate or foreign commerce, Interstate Commerce Commission, July 1, 1938, effective Sept. 1, 1938; 3 F.R. 2157.

§ 182.2 *Applications to transfer, and notifications.* (a) Applications to transfer operating rights, and the notifications provided in § 182.7 (a), shall be made in writing to the Commission, be verified under oath, and shall be in such form and contain such information as the Commission shall prescribe.

(b) A verified original copy of any such application or notification and two additional copies thereof shall be filed with the Commission, and one copy thereof shall be delivered, in person or by mail, to the District Director or District Directors of the district or districts of the Bureau of Motor Carriers in which headquarters of each of the parties signing such application or notification is located, and one copy thereof to the Board, Commission, or official, (or to the Governor where there is no Board, Commission, or official), having authority to regulate the business of transportation by motor vehicle, of each

State in which each of said parties operates. Proof of service of copies of the application or notification upon each of such persons shall be made in connection with and as a part of the original verified application or notification filed with the Commission.

(c) The transfer described in any such application shall be approved if it appears from the application or from any hearing held thereon or from any investigation thereof that the proposed transaction is one which is not subject to the provisions of section 213 of the Motor Carrier Act, 1935, and that the proposed transferee is fit, willing and able properly to perform the service authorized by the operating rights sought to be transferred, and to conform to the provisions of the Motor Carrier Act, 1935, and the requirements, rules and regulations of the Commission thereunder. Otherwise the application shall be denied.*†

§ 182.3 *Transfers to fiduciaries.* (a) The temporary continuance of motor carrier operations without prior compliance with the provisions of § 182.2 hereof will be recognized as justified by the public interest in cases in which administrators or executors of deceased carriers, guardians of incapacitated carriers, a surviving partner or the surviving partners collectively of dissolved partnerships, or trustees, receivers, conservators, assignees or other such persons who are authorized by law to collect and preserve property of financially disabled carriers, desire to continue the operations of the carriers whom they succeed in interest.

(b) Immediately upon any such succession, and in any event not more than 10 days thereafter, the successor shall give notice of the succession by a letter, properly enclosed in a stamped envelope, addressed to the Secretary of the Interstate Commerce Commission, Washington, D. C., stating the names of the motor carrier and of the successor, the date of the succession, the circumstances causing the succession, whether there has been any discontinuance of operations and, if so, for what period, and, if the representative capacity of the successor involves appointment by a judicial proceeding, a certified copy of such appointment.

*For statutory citation, see note to § 182.0.

†For source citation, see note to § 182.1.

(c) Successors under this section may exercise the operating rights of the motor carrier whom they succeed so long as they act in a temporary and representative capacity or until the Commission shall otherwise order. All transfers by such successors to other persons shall be subject to all of the provisions of § 182.2.

(d) Successors as described by this section shall operate in the name of the prior holder of the certificate, permit, or other operating right, followed also by the name of the successor and a designation of his capacity.¹ The use of such name on all papers filed in accordance with the Motor Carrier Act, 1935, or the rules and regulations prescribed thereunder, shall be sufficient compliance with any requirement, rule, or regulation that such papers be filed in the name of a holder of a certificate or permit.*†

§ 182.4 *Leases and contracts to operate.* In addition to the showing required under § 182.2, applicants who seek approval of a transfer of operating rights for a limited period, whether by lease, operating contract, or otherwise, shall show in their application and establish by proof in support thereof the specific period for which such transfer is sought, the consideration for such transfer and the time and method of payment thereof, and that the applicants have agreed in writing that all operating rights involved in the transaction shall revert to the transferor at the expiration of said term, or upon discontinuance of operations thereunder by the transferee at any time prior to the expiration of said term. In any such case of reversion, the transferor shall give immediate notice of that fact to the Commission.*†

¹For example, if John Jones were a prior holder of a certificate or permit and if Richard Smith be the successor, the name used in the operation should be as follows:

John Jones, Richard Smith, Administrator; John Jones, Richard Smith, Executor; Jones & Smith, Richard Smith, Surviving partner; John Jones, Richard Smith, Guardian; John Jones, Richard Smith, Trustee; John Jones, Richard Smith, Receiver; John Jones, Richard Smith, Conservator; and John Jones, Richard Smith, Assignee.

§ 182.5 *Orders of court.* If a transfer presented to the Commission for approval shall also require the authority or approval of any court, applicants shall file with the Commission a certified copy of the order of the court authorizing the transfer of the operating rights involved, at the time of the filing of the application, or a certified copy of the order of court approving such transfer within 30 days after such transfer has been approved by the Commission.*†

§ 182.6 *Abandoned or inactive operating rights.* The transfer of any operating right under which operations are not being conducted at the time of the proposed transfer will be approved only upon a showing that the cessation of operations was caused by circumstances over which the holder of such operating rights had no control, or that the motor carrier operations authorized under the operating rights sought to be transferred are required in the public interest.*†

§ 182.7 *Transfers of rights under intrastate certificates.* (a) A State operating right, as defined in § 182.1 (b), shall not be transferred apart from the intrastate certificate upon which it is based, but may be transferred together with such intrastate certificate without application to and prior approval of the Interstate Commerce Commission under these rules and regulations, if the transfer of the latter shall have been approved by the State Commission, Board, or official having jurisdiction, and notification of such approval, accompanied by certified copy thereof, shall have been filed within 30 days of such approval with the Interstate Commerce Commission; *And provided further,* That after such transfer the operating rights of the transferee will be solely between places within a single State.

(b) If, after a transfer from or to the holder of a State operating right, the operating rights of the transferee will not be solely between places within a single State, the transfer shall not be effective until the transferee has applied for and obtained the Commission's approval of the transfer under these rules and regulations.*†

*For statutory citation, see note to § 182.0.

†For source citation, see note to § 182.1.