

PART 189—ADOPTION NOTICES AND SUPPLEMENTS: FILING AND POSTING

§ 189.5 *Temporary operation of motor carrier properties under authority of section 210a (b)*—(a) *Compliance with rules by new carrier.* When temporary authority to take over the operating control of all or a portion of the operations of a carrier is granted pursuant to the provisions of section 210a (b) of the Motor Carrier Act, 1935, as amended, the new carrier that assumes temporary control of the operations of the old carrier shall, except as provided in paragraph (b) of this section, comply with the provisions of §§ 189.1, 189.2, and 189.4, of this part.

(b) *New concurrences and powers of attorney to be in series of old carrier.* The new carrier is not required to reissue the adopted concurrences and powers of attorney during the period of temporary control of the operations of the old carrier. New concurrences and powers of attorney granting authority to publish rates or fares from or to points included in the temporarily controlled operations, shall be in the series of the old carrier; for example,

MFXA 2 No. 6 (Roe's Trucking Series)
John Doe Transport, Inc.
Operator of
Richard Roe
d/b/a
Roe's Trucking
(Post office address)

(c) *Publication of rates, etc., in name of new carrier to be filed in name of new carrier as operator of old carrier.* The new carrier, when it publishes in a tariff or schedule issued in its name, rates, fares, charges, or other provisions relating thereto, from, to, or between points included in the temporarily controlled operations, shall file such publication in the name of the new carrier as operator of the old carrier under consecutive I.C.C. numbers (MF, MP or ME) and in the series of the old carrier. For example, if John Doe Transport, Inc. assumes temporary control of the operations of Richard Roe d/b/a Roe's Trucking, the title page of tariffs, schedules, or supplements thereto, must show the I.C.C. number and name of the carrier in substantially the following manner:

MF—I.C.C. No. 17 (Roe's Trucking Series)
John Doe Transport, Inc.
Operator of
Richard Roe
d/b/a
Roe's Trucking

(d) *Adoption notice to be filed and rules complied with when permanent authority to take over temporarily controlled operations is granted.* When permanent authority to take over the temporarily controlled operations is granted pursuant to the provisions of section 213 of the Motor Carrier Act, 1935, the new carrier shall file an adoption notice and otherwise comply with the provisions of §§ 189.1, 189.2, and 189.4 of this part.

(e) *Adoption notice when temporary authority not made permanent.* If the temporary authority to assume operating control of the old carrier is not made permanent, the old carrier must file an adoption notice and otherwise comply with §§ 189.1, 189.2, and 189.4 of this part. The effective date to be shown in the adoption notice and adoption supplements is the date on which the temporary authority for the new carrier to operate the properties of the old carrier expires or is vacated. (Secs. 217, 218, 49 Stat. 560, 561; 49 U.S.C., Sup., 317, 318) [As amended by Order, Sept. 29, 1938; 3 F.R. 2363]

PART 191—HOURS OF SERVICE

Sec.

- 191.1 Definition of terms.
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- 191.3 Requirement for period of hours an employed driver may remain on duty.
- 191.4 Requirement for period of hours an owner-driver may remain on duty.
- 191.5 Driver's log; monthly reports; forms prescribed.
- 191.6 Driver may complete run in case of earthquake, etc.
- 191.7 Transportation of passengers or property with the object of providing relief.

§ 191.1 *Definition of terms.* As used in this part:

(a) The term "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof

determined by the Commission, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails.

(b) The term "driver" means any individual who drives in transportation in interstate or foreign commerce any motor vehicle as defined in paragraph (a) above.

(c) A driver is on duty from the time he begins to work or is required to be in readiness to work until the time he is relieved from work and all responsibility for performing work. Time spent by a driver resting or sleeping in a berth as defined in paragraph (g) of this section shall not be included in computing time on duty.

(d) The term "drive or operate" includes all time spent on a moving vehicle and any interval not in excess of 20 minutes in which a driver is on duty but not on a moving vehicle. It does not include time spent resting or sleeping in a berth as defined in paragraph (g) of this section.

(e) The term "week" means any period of 168 consecutive hours beginning at the time the driver reports for duty, as defined in paragraph (c) of this section.

(f) The term "24 consecutive hours" means any such period starting at the time the driver reports for duty, as defined in paragraph (c) of this section.

(g) The term "berth" means a berth or bunk on the motor vehicle which is properly equipped for the purpose of sleeping, including springs and a mattress, or an inner-spring mattress, pillow, adequate bed clothing, adequate ventilation, and ready means of entering and leaving the berth.

(h) Where any other terms used in these regulations are defined in section 203 (a) of the Motor Carrier Act, 1935, such definitions shall be controlling. Where terms are used in the regulations which are neither defined herein nor in said section 203 (a), they shall have the ordinary practical meaning of such terms.*†

*§§ 191.1 to 191.7, inclusive, issued under the authority contained in sec. 204 (a) (1)-(3), 49 Stat. 546; 49 U.S.C., Sup., 304 (a) (1)-(3).

†In §§ 191.1 to 191.7, inclusive, the numbers to the right of the decimal point correspond with the respective rule numbers in Order re

maximum hours of service of motor carrier employees, Interstate Commerce Commission, July 12, 1938, effective Oct. 1, 1938; 3 F.R. 1876. The effective date was postponed insofar as the part applies to common and contract carriers and their employees until December 31, 1938, by Order, Sept. 26, 1938; 3 F.R. 2339, and until January 31, 1939, by Order, Dec. 22, 1933; 3 F.R. 3153. Further changes in effective date and in language are noted after § 191.5.

§ 191.2 *Compliance with and knowledge of regulations.* Every motor carrier and his or its officers, agents, employees, and representatives shall comply with the following regulations, and every such motor carrier shall require that his or its officers, agents, employees, and representatives shall be conversant with these regulations.*†

§ 191.3 *Requirement for period of hours an employed driver may remain on duty.* (a) No carrier subject to these regulations shall permit or require any driver in his employ to remain on duty, as defined in paragraph (c) of § 191.1, for a total of more than 60 hours in any week, as defined in paragraph (e) of § 191.1: *Provided, however,* That carriers operating vehicles on every day of the week may permit drivers in their employ to remain on duty for a total of not more than 70 hours in any period of 192 consecutive hours.

(b) No carrier subject to these regulations shall permit or require a driver in his employ to drive or operate a motor vehicle for more than 10 hours in the aggregate in any period of 24 consecutive hours, unless such driver be off duty for 8 consecutive hours during or immediately following the 10 hours aggregate driving and within said period of 24 consecutive hours: *Provided, however,* That two periods of resting or sleeping in a berth, as defined in paragraph (g) of § 191.1, may be cumulated to give the aforesaid total of 8 hours off duty.*†

§ 191.4 *Requirement for period of hours an owner-driver may remain on duty.* No carrier subject to these regulations if himself a driver shall remain on duty or drive or operate for longer periods than those prescribed in § 191.3 hereof for employed drivers.*†

§ 191.5 *Driver's log; monthly reports; forms prescribed.* Each carrier subject to these regulations, except carriers engaged in mass transportation and op-

erating on frequent and regular schedules, shall require that a driver's log in duplicate shall be kept by every driver in his employ who operates a motor vehicle engaged in transportation in interstate or foreign commerce, and, if himself an owner-driver, shall keep such a log. Entries in said driver's log shall be made by the driver, and shall show the place of origin and destination of the trip, the times of reporting for duty and of going off duty, the periods of driving or operating and other work, and any other information found desirable.

Each carrier shall make monthly reports to the Bureau of Motor Carriers, Interstate Commerce Commission, Washington, D. C., prior to the fifteenth day of each succeeding month, of every instance where a driver has been required or permitted to be on duty or to drive or operate for hours in excess of those prescribed by these regulations, and shall fully explain the reasons for and circumstances surrounding such violations. Such reports shall be in writing and sworn to.

Each carrier subject to said rules and regulations is hereby notified and required to keep the driver's log and make the monthly report required by this section in accordance with the respective forms 1, 2, and 3 and instructions made a part hereof.¹ [As amended by Order, July 15, 1938; 3 F.R. 18761]*†

NOTE: The effective date of this section was postponed insofar as it applies to common and contract carriers of passengers and their employees until December 31, 1938, by Order, Sept. 26, 1938; 3 F.R. 2339, and until January 31, 1939, by Order, Dec. 22, 1938; 3 F.R. 3158.

§ 191.6 *Driver may complete run in case of earthquake, etc.* In case of flood, storm, accident, or similar emergency, a driver may complete his run without being in violation of the provisions of these regulations, if such run would reasonably have been completed without violation except for the delay caused by such emergency.*†

§ 191.7 *Transportation of passengers or property with the object of providing relief.* These regulations shall not apply to any carrier subject thereto when

¹ Requests for copies of the forms and instructions should be addressed to the Interstate Commerce Commission.

transporting passengers or property to or from any section of the country with the object of providing relief in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, or other calamitous visitation or disaster.*†

PART 192—QUALIFICATION OF DRIVERS

§ 192.2 *Applicability of regulations.*

Subject to the next-succeeding limitations of this section, every common carrier and contract carrier by motor vehicle subject to the Motor Carrier Act shall comply with the regulations prescribed in § 192.3, and shall instruct his or its employees and agents with respect thereto.

Section 192.3 shall not apply to:

Motor vehicles controlled and operated by any farmer, and used in the transportation of his agricultural commodities and products thereof, or in the transportation of supplies to his farm, as described in section 203 (b) (4a) Motor Carrier Act.

The transportation of passengers or property in interstate or foreign commerce wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of any such municipality or municipalities whether or not such transportation is under a common control, management, or arrangement for a continuous carriage or shipment to or from a point without such municipality, municipalities, or zone, as described in section 203 (b) (8), Motor Carrier Act.

The casual, occasional, or reciprocal transportation of passengers or property in interstate or foreign commerce for compensation by any person not engaged in transportation by motor vehicle as a regular occupation or business, as described in section 203 (b) (9), Motor Carrier Act. (Sec. 204 (a) (1)-(2), 49 Stat. 546; 49 U.S.C., Sup. 304 (a) (1)-(2)) [As amended by Order, Dec. 3, 1938, effective Jan. 1, 1939; 3 F.R. 2901]

PART 193—DRIVING OF VEHICLES

§ 193.3 *Applicability of regulations.*

Subject to the next succeeding limitations of this section, every common car-