

§ 387.41 Violation and penalty.

Any person (except an employee who acts without knowledge) who knowingly violates the rules of this subpart shall be liable to the United States for civil penalty of no more than \$11,000 for each violation, and if any such violation is a continuing one, each day of violation will constitute a separate offense. The amount of any such penalty shall be assessed by the Administrator or his/her designee, by written notice. In determining the amount of such penalty, the Administrator or his/her designee shall take into account the nature, circumstances, extent, the gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

[53 FR 47543, Nov. 23, 1988]

Subpart C—Surety Bonds and Policies of Insurance for Motor Carriers and Property Brokers

CROSS REFERENCE: Prescribed forms relating to this part are listed in 49 CFR part 1003.

SOURCE: 32 FR 20032, Dec. 20, 1967, unless otherwise noted. Redesignated at 61 FR 54709, Oct. 21, 1996.

§ 387.301 Surety bond, certificate of insurance, or other securities.

(a) *Public liability.* (1) No common or contract carrier or foreign (Mexican) motor private carrier or foreign motor carrier transporting exempt commodities subject to Subtitle IV, part B, chapter 135 of title 49 of the U.S. Code shall engage in interstate or foreign commerce, and no certificate or permit shall be issued to such a carrier or remain in force unless and until there shall have been filed with and accepted by the FMCSA surety bonds, certificates of insurance, proof of qualifications as self-insurer, or other securities or agreements, in the amounts prescribed in § 387.303, conditioned to pay any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance

or use of motor vehicles in transportation subject to Subtitle IV, part B, chapter 135 of title 49 of the U.S. Code, or for loss of or damage to property of others, or, in the case of motor carriers of property operating freight vehicles described in § 387.303(b)(2) of this part, for environmental restoration.

(2) Motor Carriers of property which are subject to the conditions set forth in paragraph (a)(1) of this section and transport the commodities described in § 387.303(b)(2), are required to obtain security in the minimum limits prescribed in § 387.303(b)(2).

(b) *Household goods motor carriers-cargo insurance.* No household goods motor carrier subject to subtitle IV, part B, chapter 135 of title 49 of the U.S. Code shall engage in interstate or foreign commerce, nor shall any certificate be issued to such a household goods motor carrier or remain in force unless and until there shall have been filed with and accepted by the FMCSA, a surety bond, certificate of insurance, proof of qualifications as a self-insurer, or other securities or agreements in the amounts prescribed in § 387.303, conditioned upon such carrier making compensation to individual shippers for all property belonging to individual shippers and coming into the possession of such carrier in connection with its transportation service. The terms “household goods motor carrier” and “individual shipper” are defined in part 375 of this subchapter.

(c) *Continuing compliance required.* Such security as is accepted by the FMCSA in accordance with the requirements of section 13906 of title 49 of the U.S. Code, shall remain in effect at all times.

[48 FR 51780, Nov. 14, 1983, as amended at 60 FR 63981, Dec. 13, 1995; 62 FR 49941, Sept. 24, 1997; 75 FR 35328, June 22, 2010]

§ 387.303 Security for the protection of the public: Minimum limits.

(a) *Definitions.* (1) *Primary security* means public liability coverage provided by the insurance or surety company responsible for the first dollar of coverage.

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(2) *Excess security* means public liability coverage above the primary security, or above any additional underlying security, up to and including the required minimum limits set forth in paragraph (b)(2) of this section.

(b)(1) Motor carriers subject to § 387.301(a)(1) are required to have security for the required minimum limits as follows:

Passenger Carriers: Kind of Equipment	
Vehicle seating capacity	Minimum limit
(i) Any vehicle with a seating capacity of 16 passengers or more	\$5,000,000
(ii) Any vehicle designed or used to transport more than 8 passengers (including the driver) for compensation	1,500,000

(2) Motor carriers subject to § 387.301(a)(2) are required to have security for the required minimum limits as follows:

Kind of equipment	Commodity transported	July 1, 1983*	July 1, 1984*
(a) Freight Vehicles of 10,001 Pounds or More GVWR.	Property (non-hazardous)	\$500,000	\$750,000
(b) Freight Vehicles of 10,001 Pounds or More GVWR.	Hazardous substances, as defined in § 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons, or in bulk Class A or B explosives, poison gas (Poison A) liquefied compressed gas or compressed gas, or highway route controlled quantity radioactive materials as defined in § 173.455.	1,000,000	5,000,000
(c) Freight Vehicles of 10,001 Pounds or More GVWR.	Oil listed in § 172.101; hazardous waste, hazardous materials and hazardous substances defined in § 171.8 and listed in § 172.101, but not mentioned in (b) above or (d) below.	500,000	1,000,000
(d) Freight Vehicles Under 10,001 Pounds GVWR.	Any quantity of Class A or B explosives; any quantity of poison gas (Poison A); or highway route controlled quantity radioactive materials as defined in § 173.455.	1,000,000	5,000,000

*NOTE: The effective date of the current required minimum limit in § 387.303(b)(2) was January 6, 1983, in accordance with the requirements of Pub. L. 97-424, 96 Stat. 2097.

(3) Motor carriers subject to the minimum limits governed by this section, which are also subject to Department of Transportation limits requirements, are at no time required to have security for more than the required minimum limits established by the Secretary of Transportation in the applicable provisions of 49 CFR Part 387—Minimum Levels of Financial Responsibility for Motor Carriers.

(4) *Foreign motor carriers and foreign motor private carriers.* Foreign motor carriers and foreign motor private carriers (Mexican), subject to the requirements of 49 U.S.C. 13902(c) and 49 CFR part 368 regarding obtaining certificates of registration from the FMCSA, must meet our minimum financial responsibility requirements by obtaining insurance coverage, in the required amounts, for periods of 24 hours or longer, from insurance or surety companies, that meet the requirements of 49 CFR 387.315. These carriers must have available for inspection, in each vehicle operating in the United States, copies of the following documents:

- (i) The certificate of registration;

- (ii) The required insurance endorsement (Form MCS-90); and

- (iii) An insurance identification card, binder, or other document issued by an authorized insurer which specifies both the effective date and the expiration date of the insurance coverage.

Notwithstanding the provisions of § 387.301(a)(1), the filing of evidence of insurance is not required as a condition to the issuance of a certificate of registration. Further, the reference to continuous coverage at § 387.313(a)(6) and the reference to cancellation notice at § 387.313(d) are not applicable to these carriers.

(c) *Household goods motor carriers: Cargo liability.* Security required to compensate individual shippers for loss or damage to property belonging to them and coming into the possession of household goods motor carriers in connection with their transportation service;

- (1) For loss of or damage to household goods carried on any one motor vehicle—\$5,000,

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(2) For loss of or damage to or aggregate of losses or damages of or to household goods occurring at any one time and place—\$10,000.

[47 FR 55944, Dec. 14, 1982, as amended at 48 FR 43333, Sept. 23, 1983; 48 FR 45775, Oct. 7, 1983; 48 FR 51780, Nov. 14, 1983; 49 FR 1991, Jan. 17, 1984; 49 FR 27767, July 6, 1984; 50 FR 40030, Oct. 1, 1985; 53 FR 36984, Sept. 23, 1988; 54 FR 52034, Dec. 20, 1989; 55 FR 47338, Nov. 13, 1990; 62 FR 49941, Sept. 24, 1997; 67 FR 61824, Oct. 2, 2002; 68 FR 56198, Sept. 30, 2003; 72 FR 55701, Oct. 1, 2007; 75 FR 35328, June 22, 2010]

§ 387.305 Combination vehicles.

The following combinations will be regarded as one motor vehicle for purposes of this part, (a) a tractor and trailer or semitrailer when the tractor is engaged solely in drawing the trailer or semitrailer, and (b) a truck and trailer when both together bear a single load.

§ 387.307 Property broker surety bond or trust fund.

(a) *Security.* (1) A property broker must have a surety bond or trust fund in effect for \$10,000. The FMCSA will not issue a property broker license until a surety bond or trust fund for the full limits of liability prescribed herein is in effect. The broker license shall remain valid or effective only as long as a surety bond or trust fund remains in effect and shall ensure the financial responsibility of the broker.

(2) A household goods broker must have a surety bond or trust fund in effect for \$25,000 on and after January 1, 2012. The FMCSA will not issue a household goods broker license until a surety bond or trust fund for the full limits of liability prescribed herein is in effect. The household goods broker license remains valid or effective only as long as a surety bond or trust fund remains in effect and ensures the financial responsibility of the household goods broker. The compliance date for paragraph (a)(2) is January 1, 2012.

(b) *Evidence of security.* Evidence of a surety bond must be filed using the FMCSA's prescribed Form BMC 84. Evidence of a trust fund with a financial institution must be filed using the FMCSA's prescribed Form BMC 85. The surety bond or the trust fund shall ensure the financial responsibility of the broker by providing for payments to

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shippers or motor carriers if the broker fails to carry out its contracts, agreements, or arrangements for the supplying of transportation by authorized motor carriers.

(c) *Financial institution*—when used in this section and in forms prescribed under this section, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, shall mean—Each agent, agency, branch or office within the United States of any person, as defined by the ICC Termination Act, doing business in one or more of the capacities listed below:

(1) An insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)));

(2) A commercial bank or trust company;

(3) An agency or branch of a foreign bank in the United States;

(4) An insured institution (as defined in section 401(a) of the National Housing Act (12 U.S.C. 1724(a)));

(5) A thrift institution (savings bank, building and loan association, credit union, industrial bank or other);

(6) An insurance company;

(7) A loan or finance company; or

(8) A person subject to supervision by any state or federal bank supervisory authority.

(d) *Forms and Procedures*—(1) *Forms for broker surety bonds and trust agreements.* Form BMC-84 broker surety bond will be filed with the FMCSA for the full security limits under subsection (a); or Form BMC-85 broker trust fund agreement will be filed with the FMCSA for the full security limits under paragraph (a) of this section.

(2) *Broker surety bonds and trust fund agreements in effect continuously.* Surety bonds and trust fund agreements shall specify that coverage thereunder will remain in effect continuously until terminated as herein provided.

(i) *Cancellation notice.* The surety bond and the trust fund agreement may be cancelled as only upon 30 days' written notice to the FMCSA, on prescribed Form BMC 36, by the principal or surety for the surety bond, and on prescribed Form BMC 85, by the trustor/broker or trustee for the trust fund agreement. The notice period commences upon the actual receipt of