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rate for the transportation or service. Departing, or offering to depart, from that published or filed rate is a violation of 49 U.S.C. 14902 and 14903.

(21) A person—

(i) Who knowingly and willfully fails, in violation of a contract, to deliver to, or unload at, the destination of a shipment of household goods in interstate commerce for which charges have been estimated by the motor carrier transporting such goods, and for which the shipper has tendered a payment in accordance with part 375, subpart G, of this subchapter, is liable for a civil penalty of not less than $20,537 for each violation. Each day of a continuing violation constitutes a separate offense.

(ii) Who is a carrier or broker and is found to be subject to the civil penalties in paragraph (i) of this appendix may also have his or her carrier and/or broker registration suspended for not less than 12 months and not more than 36 months under 49 U.S.C. chapter 139. Such suspension of a carrier or broker shall extend to and include any carrier or broker having the same ownership or operational control as the suspended carrier or broker.

(22) A broker for transportation of household goods who makes an estimate of the cost of transporting any such goods before entering into an agreement with a motor carrier to provide transportation of household goods subject to FMCSA jurisdiction is liable to the United States for a civil penalty of not less than $15,846 for each violation.

(23) A person who provides transportation of household goods subject to jurisdiction under 49 U.S.C. chapter 135, subchapter I, or provides broker services for such transportation, without being registered under 49 U.S.C. chapter 139 to provide such transportation or services as a motor carrier or broker, as the case may be, is liable to the United States for a civil penalty of not less than $39,615 for each violation.

(24) Beginning on January 16, 2026, a surety company or financial institution for a broker or freight forwarder pursuant to §387.307 of this subchapter that violates 49 U.S.C. 13906(b) or (c) or §387.307:

(i) Is liable to the United States for a penalty of $12,882 for each violation; and

(ii) Will be ineligible to provide broker financial security for 3 years.

(h) *Copying of records and access to equipment, lands, and buildings.* A person subject to 49 U.S.C. chapter 51 or a motor carrier, broker, freight forwarder, or owner or operator of a commercial motor vehicle subject to part B of subtitle VI of title 49 U.S.C. who fails to allow promptly, upon demand in person or in writing, the Federal Motor Carrier Safety Administration, an employee designated by the Federal Motor Carrier Safety Administration, or an employee of a MCSAP grant recipient to inspect and copy any record or inspect and examine equipment, lands, buildings, and other property, in accordance with 49 U.S.C. 504(c), 5121(c), and 14122(b), is subject to a civil penalty of not more than $1,584 for each offense. Each day of a continuing violation constitutes a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed $15,846.

(i) *Evasion.* A person, or an officer, employee, or agent of that person:

(1) Who by any means tries to evade regulation of motor carriers under title 49, United States Code, chapter 5, chapter 51, subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502, or a regulation in subtitle B, chapter I, subchapter C of this title, or this subchapter, issued under any of those provisions, shall be fined at least $2,730 but not more than $6,823 for the first violation and at least $3,409 but not more than $10,224 for a subsequent violation.

(2) Who tries to evade regulation under part B of subtitle IV, title 49, U.S.C., for carriers or brokers is liable for a penalty of at least $2,730 for the first violation or at least $6,823 for a subsequent violation.

[80 FR 18156, Apr. 3, 2015, as amended at 80 FR 78383, Dec. 16, 2015; 81 FR 41463, June 27, 2016; 82 FR 17591, Apr. 12, 2017; 83 FR 60751, Nov. 27, 2018; 84 FR 37076, July 31, 2019; 86 FR 1761, Jan. 11, 2021; 86 FR 23257, May 3, 2021; 87 FR 15871, Mar. 21, 2022; 88 FR 1130, Jan. 6, 2023; 88 FR 89565, Dec. 28, 2023; 88 FR 78672, Nov. 16, 2023; 89 FR 106298, Dec. 30, 2024; 89 FR 107026, Dec. 31, 2024; 90 FR 22866, May 30, 2025]

# PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

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APPENDIX A TO PART 387—APPLICABILITY OF THE REGISTRATION, FINANCIAL RESPONSIBILITY, AND SAFETY REGULATIONS TO MOTOR CARRIERS OF PASSENGERS

AUTHORITY: 49 U.S.C. 13101, 13301, 13906, 13908, 14701, 31138, 31139; sec. 204(a), Pub. L. 104–88, 109 Stat. 803, 941; and 49 CFR 1.87.

EDITORIAL NOTE: Nomenclature changes to part 387 appear at 66 FR 49872, Oct. 1, 2001.

## Subpart A—Motor Carriers of Property

### § 387.1 Purpose and scope.

This subpart prescribes the minimum levels of financial responsibility required to be maintained by motor carriers of property operating motor vehicles in interstate, foreign, or intrastate commerce. The purpose of these regulations is to create additional incentives to motor carriers to maintain and operate their vehicles in a safe manner and to assure that motor carriers maintain an appropriate level of financial responsibility for motor vehicles operated on public highways.

[46 FR 30982, June 11, 1981, as amended at 48 FR 52683, Nov. 21, 1983]

### § 387.3 Applicability.

(a) This subpart applies to for-hire motor carriers operating motor vehicles transporting property in interstate or foreign commerce.

(b) This subpart applies to motor carriers operating motor vehicles transporting hazardous materials, hazardous substances, or hazardous wastes in interstate, foreign, or intrastate commerce.

(c) *Exception.* (1) The rules in this subpart do not apply to a motor vehicle that has a gross vehicle weight rating (GVWR) of less than 10,001 pounds. This exception does not apply if the vehicle is used to transport any quantity of a Division 1.1, 1.2, or 1.3 material, any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A, or to a highway route controlled quantity of a Class 7 material as it is defined in 49 CFR 173.403, in interstate or foreign commerce.

(2) The rules in this subpart do not apply to the transportation of non-bulk

oil, non-bulk hazardous materials, substances, or wastes in intrastate commerce, except that the rules in this subpart do apply to the transportation of a highway route controlled quantity of a Class 7 material as defined in 49 CFR 173.403, in intrastate commerce.

[46 FR 30982, June 11, 1981; 46 FR 45612, Sept. 14, 1981, as amended at 48 FR 5559, Feb. 7, 1983; 48 FR 52683, Nov. 21, 1983; 49 FR 38290, Sept. 28, 1984; 59 FR 63923, Dec. 12, 1994; 73 FR 76496, Dec. 16, 2008; 83 FR 22876, May 17, 2018]

### § 387.5 Definitions.

As used in this subpart—

*Accident* includes continuous or repeated exposure to the same conditions resulting in public liability which the insured neither expected nor intended.

*Bodily injury* means injury to the body, sickness, or disease including death resulting from any of these.

*Cancellation of insurance* means the withdrawal of insurance coverage by either the insurer or the insured.

*Endorsement* means an amendment to an insurance policy.

*Environmental restoration* means restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water of any commodity transported by a motor carrier. This shall include the cost of removal and the cost of necessary measure taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife.

*Evidence of security* means a surety bond or a policy of insurance with the appropriate endorsement attached.

*Financial responsibility* means the financial reserves (e.g., insurance policies or surety bonds) sufficient to satisfy liability amounts set forth in this subpart covering public liability.

*For-hire carriage* means the business of transporting, for compensation, the goods or property of another.

*In bulk* means the transportation, as cargo, of property, except Division 1.1, 1.2, or 1.3 materials, and Division 2.3, Hazard Zone A gases, in containment systems with capacities in excess of 3500 water gallons.

*In bulk (Division 1.1, 1.2, and 1.3 explosives)* means the transportation, as cargo, of any Division 1.1, 1.2, or 1.3 materials in any quantity.

*In bulk (Division 2.3, Hazard Zone A or Division 6.1, Packing Group I, Hazard Zone A materials)* means the transportation, as cargo, of any Division 2.3, Hazard Zone A, or Division 6.1, packing Group I, Hazard Zone A material, in any quantity.

*Insured and principal* means the motor carrier named in the policy of insurance, surety bond, endorsement, or notice of cancellation, and also the fiduciary of such motor carrier.

*Insurance premium* means the monetary sum an insured pays an insurer for acceptance of liability for public liability claims made against the insured.

*Motor carrier* means a for-hire motor carrier or a private motor carrier. The term includes, but is not limited to, a motor carrier's agent, officer, or representative; an employee responsible for hiring, supervising, training, assigning, or dispatching a driver; or an employee concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories.

*Property damage* means damage to or loss of use of tangible property.

*Public liability* means liability for bodily injury or property damage and includes liability for environmental restoration.

*State* means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

[46 FR 30982, June 11, 1981; 46 FR 45612, Sept. 14, 1981; 47 FR 12801, Mar. 25, 1982, as amended at 48 FR 52683, Nov. 21, 1983; 51 FR 33856, Sept. 23, 1986; 53 FR 12160, Apr. 13, 1988; 59 FR 63923, Dec. 12, 1994; 62 FR 16709, Apr. 8, 1997; 63 FR 33275, June 18, 1998; 78 FR 58482, Sept. 24, 2013]

### § 387.7 Financial responsibility required.

(a) No motor carrier shall operate a motor vehicle until the motor carrier has obtained and has in effect the minimum levels of financial responsibility as set forth in § 387.9 of this subpart.

(b)(1) Policies of insurance, surety bonds, and endorsements required under this section shall remain in effect continuously until terminated.

Cancellation may be effected by the insurer or the insured motor carrier giving 35 days' notice in writing to the other. The 35 days' notice shall commence to run from the date the notice is transmitted. Proof of transmission shall be sufficient proof of notice.

(2) *Exception.* Policies of insurance and surety bonds may be obtained for a finite period of time to cover any lapse in continuous compliance.

(3) *Exception.* (i) A Mexico-domiciled motor carrier operating solely in municipalities in the United States on the U.S.-Mexico international border or within the commercial zones of such municipalities with a Certificate of Registration issued under part 368 may meet the minimum financial responsibility requirements of this subpart by obtaining insurance coverage, in the required amounts, for periods of 24 hours or longer, from insurers that meet the requirements of § 387.11.

(ii) A Mexican motor carrier so insured must have available for inspection in each of its vehicles copies of the following documents:

(A) The Certificate of Registration;

(B) The required insurance endorsement (Form MCS–90); and

(C) 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 temporary insurance coverage authorized by this exception.

(iii) Mexican motor carriers insured under this exception are also exempt from the notice of cancellation requirements stated on Form MCS–90.

(c) Policies of insurance and surety bonds required under this section may be replaced by other policies of insurance or surety bonds. The liability of the retiring insurer or surety, as to events after the termination date, shall be considered as having terminated on the effective date of the replacement policy of insurance or surety bond or at the end of the 35 day cancellation period required in paragraph (b) of this section, whichever is sooner.

(d) Proof of the required financial responsibility shall be maintained at the motor carrier's principal place of business. The proof shall consist of—

(1) ''Endorsement(s) for Motor Carrier Policies of Insurance for Public Liability Under Sections 29 and 30 of the Motor Carrier Act of 1980'' (Form MCS–90) issued by an insurer(s);

(2) A ''Motor Carrier Surety Bond for Public Liability Under Section 30 of the Motor Carrier Act of 1980'' (Form MCS–82) issued by a surety; or

(3) A written decision, order, or authorization of the Federal Motor Carrier Safety Administration authorizing a motor carrier to self-insure under § 387.309, provided the motor carrier maintains a satisfactory safety rating as determined by the Federal Motor Carrier Safety Administration under part 385 of this chapter.

(e)(1) The proof of minimum levels of financial responsibility required by this section shall be considered public information and be produced for review upon reasonable request by a member of the public.

(2) In addition to maintaining proof of financial responsibility as required by paragraph (d) of this section, non-North America-domiciled private and for-hire motor carriers shall file evidence of financial responsibility with FMCSA in accordance with the requirements of subpart C of this part.

(f) All vehicles operated within the United States by motor carriers domiciled in a contiguous foreign country, shall have on board the vehicle a legible copy, in English, of the proof of the required financial responsibility (Form MCS–90 or MCS–82) used by the motor carrier to comply with paragraph (d) of this section.

(g) Any motor vehicle in which there is no evidence of financial responsibility required by paragraph (f) of this section shall be denied entry into the United States.

[46 FR 30982, June 11, 1981; 46 FR 45612, Sept. 14, 1981, as amended at 48 FR 5559, Feb. 7, 1983; 48 FR 52683, Nov. 21, 1983; 51 FR 22083, June 18, 1986; 54 FR 49092, Nov. 29, 1989; 59 FR 63923, Dec. 12, 1994; 67 FR 12661, Mar. 19, 2002; 73 FR 76496, Dec. 16, 2008; 83 FR 16226, Apr. 16, 2018; 83 FR 22876, May 17, 2018]

### § 387.9 Financial responsibility, minimum levels.

The minimum levels of financial responsibility referred to in § 387.7 are hereby prescribed as follows:

TABLE 1 TO § 387.9—SCHEDULE OF LIMITS—PUBLIC LIABILITY

| Type of carriage | Commodity transported | January 1, 1985 |
|---|---|---|
| (1) For-hire (In interstate or foreign commerce, with a gross vehicle weight rating of 10,001 or more pounds). | Property (nonhazardous) | $750,000 |
| (2) For-hire and Private (In interstate, foreign, or intrastate commerce, with a gross vehicle weight rating of 10,001 or more pounds). | Hazardous substances, as defined in 49 CFR 171.8, transported in bulk in cargo tanks, portable tanks, or hopper-type vehicles with capacities in bulk; in bulk Division 1.1, 1.2 or 1.3 materials; in bulk Division 2.3, Hazard Zone A material; in bulk Division 6.1, Packing Group I, Hazard Zone A material; in bulk Division 2.1 or 2.2 material; or highway route controlled quantities of a Class 7 material, as defined in 49 CFR 173.403. | 5,000,000 |
| (3) For-hire and Private (In interstate or foreign commerce, in any quantity; or in intrastate commerce, in bulk only; with a gross vehicle weight rating of 10,001 or more pounds). | Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials, or hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in entry (2) or (4) of this table. | 1,000,000 |
| (4) For-hire and Private (In interstate or foreign commerce, with a gross vehicle weight rating of less than 10,001 pounds). | In bulk Division 1.1, 1.2, or 1.3 material; in bulk Division 2.3, Hazard Zone A material; in bulk Division 6.1, Packing Group I, Hazard Zone A material; or highway route controlled quantities of a Class 7 material as defined in 49 CFR 173.403. | 5,000,000 |

[86 FR 57071, Oct. 14, 2021, as amended at 88 FR 80183, Nov. 17, 2023]

### § 387.11 State authority and designation of agent.

A policy of insurance or surety bond does not satisfy the financial responsibility requirements of this subpart unless the insurer or surety furnishing the policy or bond is—

(a) Legally authorized to issue such policies or bonds in each State in which the motor carrier operates; or

(b) Legally authorized to issue such policies or bonds in the State in which the motor carrier has its principal place of business or domicile, and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any State in which the motor carrier operates; or

(c) Legally authorized to issue such policies or bonds in any State of the United States and eligible as an excess or surplus lines insurer in any State in which business is written, and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any State in which the motor carrier operates.

(d) A Canadian insurance company legally authorized to issue a policy of insurance in the Province or Territory of Canada in which the Canadian motor carrier has its principal place of business or domicile, and that is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction over the subject matter, may be served in any proceeding at law or equity brought in any State in which the motor carrier operates.

[46 FR 30982, June 11, 1981, as amended at 48 FR 52683, Nov. 21, 1983; 75 FR 38430, July 2, 2010]

### § 387.13 Fiduciaries.

The coverage of fiduciaries shall attach at the moment of succession of such fiduciaries.

[46 FR 30982, June 11, 1981]

### § 387.15 Forms.

Endorsements for policies of insurance (Form MCS–90) and surety bonds (Form MCS–82) must be in the form prescribed by the FMCSA and approved by the OMB. Endorsements to policies of insurance and surety bonds shall specify that coverage thereunder will remain in effect continuously until terminated, as required in § 387.7 of this

subpart. The continuous coverage requirement does not apply to Mexican motor carriers insured under §387.7(b)(3) of this subpart. The endorsement and surety bond shall be issued in the exact name of the motor carrier. The Forms MCS–82 and MCS–90 are available from the FMCSA website at *http://www.fmcsa.dot.gov/mission/forms*.

[83 FR 16226, Apr. 16, 2018]

### §387.17 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 a civil penalty as stated in part 386, appendix B, of this chapter, 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 FMCSA's Administrator, by written notice. In determining the amount of such penalty, the Administrator, or his/her authorized delegate 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 violations, ability to pay, and any effect on ability to continue to do business, and such other matters as justice may require.

[80 FR 18158, Apr. 3, 2015]

### §387.19 Electronic filing of surety bonds, trust fund agreements, certificates of insurance and cancellations.

(a) Insurers of exempt for-hire motor carriers, as defined in §390.5 of this subchapter, and private motor carriers that transport hazardous materials in interstate commerce that are registered with FMCSA on September 30, 2016, must file certificates of insurance, surety bonds, and other securities and agreements with FMCSA by April 14, 2017. Insurers of all other exempt for-hire motor carriers, as defined in §390.5 of this subchapter, and private motor carriers that transport hazardous materials in interstate commerce must file certificates of insurance, surety bonds, and other securities and agreements with FMCSA at the time of the application for registration. These filings must be made electronically in accordance with the requirements and procedures set forth at §387.323.

(b) The requirements of this section do not apply to motor carriers excepted under §387.7(b)(3).

[80 FR 63708, Oct. 21, 2015; 81 FR 49554, July 28, 2016]

EFFECTIVE DATE NOTE: At 82 FR 5307, Jan. 17, 2017, §387.19 was suspended, effective Jan. 14, 2017.

## Subpart B—Motor Carriers of Passengers

SOURCE: 48 FR 52683, Nov. 21, 1983, unless otherwise noted.

### §387.25 Purpose and scope.

This subpart prescribes the minimum levels of financial responsibility required to be maintained by for-hire motor carriers of passengers operating motor vehicles in interstate or foreign commerce. The purpose of these regulations is to create additional incentives to carriers to operate their vehicles in a safe manner and to assure that they maintain adequate levels of financial responsibility.

### §387.27 Applicability.

(a) This subpart applies to for-hire motor carriers transporting passengers in interstate or foreign commerce.

(b) *Exception.* The rules in this subpart do not apply to—

(1) A motor vehicle transporting only school children and teachers to or from school;

(2) A motor vehicle providing taxicab service and having a seating capacity of less than 7 passengers and not operated on a regular route or between specified points;

(3) A motor vehicle carrying less than 16 individuals in a single daily round trip to commute to and from work; and

(4) A motor vehicle operated by a motor carrier under contract providing transportation of preprimary, primary,

and secondary students for extracurricular trips organized, sponsored, and paid by a school district.

[48 FR 52683, Nov. 21, 1983, as amended at 63 FR 33275, June 18, 1998]

### § 387.29 Definitions.

As used in this subpart—

*Accident* means includes continuous or repeated exposure to the same conditions resulting in public liability which the insured neither expected nor intended.

*Bodily injury* means injury to the body, sickness, or disease including death resulting from any of these.

*Endorsement* means an amendment to an insurance policy.

*Financial responsibility* means the financial reserves (e.g., insurance policies or surety bonds) sufficient to satisfy liability amounts set forth in this subpart covering public liability.

*For-hire carriage* means the business of transporting, for compensation, passengers and their property, including any compensated transportation of the goods or property or another.

*Insured and principal* means the motor carrier named in the policy of insurance, surety bond, endorsement, or notice of cancellation, and also the fiduciary of such motor carrier.

*Insurance premium* means the monetary sum an insured pays an insurer for acceptance of liability for public liability claims made against the insured.

*Motor carrier* means a for-hire motor carrier. The term includes, but is not limited to, a motor carrier's agent, officer, or representative; an employee responsible for hiring, supervising, training, assigning, or dispatching a driver; or an employee concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories.

*Property damage* means damage to or loss of use of tangible property.

*Public liability* means liability for bodily injury or property damage.

*Seating capacity* means any plan view location capable of accommodating a person at least as large as a 5th percentile adult female, if the overall seat configuration and design and vehicle design is such that the position is likely to be used as a seating position while the vehicle is in motion, except for auxiliary seating accommodations such as temporary or folding jump seats. Any bench or split bench seat in a passenger car, truck or multi-purpose passenger vehicle with a gross vehicle weight rating less than 10,000 pounds, having greater than 50 inches of hip room (measured in accordance with SEA Standards J1100(a)) shall have not less than three designated seating positions, unless the seat design or vehicle design is such that the center position cannot be used for seating.

[48 FR 52683, Nov. 21, 1983, as amended at 63 FR 33276, June 18, 1998; 78 FR 58482, Sept. 24, 2013]

### § 387.31 Financial responsibility required.

(a) No motor carrier shall operate a motor vehicle transporting passengers until the motor carrier has obtained and has in effect the minimum levels of financial responsibility as set forth in § 387.33 of this subpart.

(b) Policies of insurance, surety bonds, and endorsements required under this section shall remain in effect continuously until terminated.

(1) Cancellation may be effected by the insurer or the insured motor carrier giving 35 days' notice in writing to the other. The 35 days' notice shall commence to run from the date the notice is transmitted. Proof of transmission shall be sufficient proof of notice.

(2) *Exception.* Policies of insurance and surety bonds may be obtained for a finite period of time to cover any lapse in continuous compliance.

(3) *Exception.* Mexican motor carriers may meet the minimum financial responsibility requirements of this subpart by obtaining insurance coverage, in the required amounts, for periods of 24 hours or longer, from insurers that meet the requirements of § 387.35 of this subpart. A Mexican motor carrier so insured must have available for inspection in each of its vehicles copies of the following documents:

(i) The required insurance endorsement (Form MCS–90B); and

(ii) 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 temporary insurance coverage authorized by this exception.

Mexican motor carriers insured under this exception are also exempt from the notice of cancellation requirements stated on Form MCS–90B.

(c) Policies of insurance and surety bonds required under this section may be replaced by other policies of insurance or surety bonds. The liability of retiring insurer or surety, as to events after the termination date, shall be considered as having terminated on the effective date of the replacement policy of insurance or surety bond or at the end or the 35 day cancellation period required in paragraph (b) of this section, whichever is sooner.

(d) Proof of the required financial responsibility shall be maintained at the motor carrier's principal place of business. The proof shall consist of—

(1) ''Endorsement(s) for Motor Carriers of Passengers Policies of Insurance for Public Liability Under Section 18 of the Bus Regulatory Reform Act of 1982'' (Form MCS–90B) issued by an insurer(s); or

(2) A ''Motor Carrier of Passengers Surety Bond for Public Liability Under Section 18 of the Bus Regulatory Reform Act of 1982'' (Form MCS–82B) issued by a surety.

(e)(1) The proof of minimum levels of financial responsibility required by this section shall be considered public information and be produced for review upon reasonable request by a member of the public.

(2) In addition to maintaining proof of financial responsibility as required by paragraph (d) of this section, non-North America-domiciled private and for-hire motor carriers shall file evidence of financial responsibility with FMCSA in accordance with the requirements of subpart C of this part.

(f) All passenger carrying vehicles operated within the United States by motor carriers domiciled in a contiguous foreign country, shall have on board the vehicle a legible copy, in English, of the proof of the required financial responsibility (Forms MCS–90B or MCS–82B) used by the motor carrier to comply with paragraph (d) of this section.

(g) Any motor vehicle in which there is no evidence of financial responsibility required by paragraph (f) of this section shall be denied entry into the United States.

[48 FR 52683, Nov. 21, 1983, as amended at 50 FR 7062, Feb. 20, 1985; 54 FR 49092, Nov. 29, 1989; 60 FR 38743, July 28, 1995; 73 FR 76496, Dec. 16, 2008; 83 FR 16226, Apr. 16, 2018]

### § 387.33 Financial responsibility, minimum levels.

(a) *General limits.* Except as provided in § 387.27(b), the minimum levels of financial responsibility referred to in § 387.31 are prescribed as follows:

SCHEDULE OF LIMITS

PUBLIC LIABILITY

For-hire motor carriers of passengers operating in interstate or foreign commerce.

| Vehicle seating capacity | Minimum limits |
|---|---|
| (1) Any vehicle with a seating capacity of 16 passengers or more, including the driver .. | $5,000,000 |
| (2) Any vehicle with a seating capacity of 15 passengers or less, including the driver .... | 1,500,000 |

(b) *Limits applicable to transit service providers.* Notwithstanding the provisions of paragraph (a) of this section, the minimum level of financial responsibility for a motor vehicle used to provide transportation services within a transit service area located in more than one State under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under 49 U.S.C. 5307, 5310 or 5311, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities, will be the highest level required for any of the States in which it operates. This paragraph applies to transit service providers that operate in more than one State, as well as transit service providers that operate in only one State but interline with other motor carriers that provide interstate transportation within or outside the transit service area. Transit service providers conducting such operations must register as for-hire passenger carriers under part 365, subpart A and part 390, subpart E, of this subchapter, identify the State(s) in which they operate under the applicable grants, and certify on their registration documents that they

have in effect financial responsibility levels in an amount equal to or greater than the highest level required by any of the States in which they are operating under a qualifying grant.

[80 FR 63709, Oct. 21, 2015, as amended at 83 FR 22876, May 17, 2018]

EFFECTIVE DATE NOTE: At 82 FR 5307, Jan. 17, 2017, § 387.33 was suspended, effective Jan. 14, 2017.

### § 387.33T Financial responsibility, minimum levels.

Except as provided in § 387.27(b), the minimum levels of financial responsibility referred to in § 387.31 are hereby prescribed as follows:

SCHEDULE OF LIMITS

PUBLIC LIABILITY

For-hire motor carriers of passengers operating in interstate or foreign commerce.

| Vehicle seating capacity | Minimum limits |
|---|---|
| (a) Any vehicle with a seating capacity of 16 passengers or more, including the driver .. | $5,000,000 |
| (b) Any vehicle with a seating capacity of 15 passengers or less, including the driver .... | 1,500,000 |

[83 FR 22877, May 17, 2018]

### § 387.35 State authority and designation of agent.

A policy of insurance or surety bond does not satisfy the financial responsibility requirements of this subpart unless the insurer or surety furnishing the policy or bond is—

(a) Legally authorized to issue such policies or bonds in each State in which the motor carrier operates, or

(b) Legally authorized to issue such policies or bonds in the State in which the motor carrier has its principal place of business or domicile, and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any State in which the motor carrier operates; or

(c) Legally authorized to issue such policies or bonds in any State of the United States and eligible as an excess or surplus lines insurer in any State in which business is written, and is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction of the subject matter, may be served in any proceeding at law or equity brought in any State in which the motor carrier operates.

(d) A Canadian insurance company legally authorized to issue a policy of insurance in the Province or Territory of Canada in which a Canadian motor carrier has its principal place of business or domicile, and that is willing to designate a person upon whom process, issued by or under the authority of any court having jurisdiction over the subject matter, may be served in any proceeding at law or equity brought in any State in which the motor carrier operates.

[48 FR 52683, Nov. 21, 1983, as amended at 75 FR 38430, July 2, 2010]

### § 387.37 Fiduciaries.

The coverage of fiduciaries shall attach at the moment of succession of such fiduciaries.

### § 387.39 Forms.

Endorsements for policies of insurance (Form MCS–90B) and surety bonds (Form MCS–82B) must be in the form prescribed by the FMCSA and approved by the OMB. Endorsements to policies of insurance and surety bonds shall specify that coverage thereunder will remain in effect continuously until terminated, as required in § 387.31 of this subpart. The continuous coverage requirement does not apply to Mexican motor carriers insured under § 387.31(b)(3) of this subpart. The endorsement and surety bond shall be issued in the exact name of the motor carrier. The Forms MCS–82B and MCS–90B are available from the FMCSA website at *http://www.fmcsa.dot.gov/mission/forms*.

[83 FR 16226, Apr. 16, 2018]

### § 387.41 Violation and penalty.

(a) 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 a civil penalty as stated in part 386, appendix B, of this chapter,

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.

(b) 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 violations, the ability to pay, and any effect on ability to continue to do business, and such other matters as justice may require.

[80 FR 18158, Apr. 3, 2015]

### § 387.43 Electronic filing of surety bonds, trust fund agreements, certificates of insurance and cancellations.

(a) Insurers of for-hire motor carriers of passengers that are registered with FMCSA on September 30, 2016, must file certificates of insurance, surety bonds, and other securities and agreements with FMCSA by December 31, 2016. Insurers of all other exempt for-hire motor carriers of passengers must file certificates of insurance, surety bonds, and other securities and agreements with FMCSA at the time of the application for registration. These filings must be made electronically in accordance with the requirements and procedures set forth at § 387.323.

(b) This section does not apply to motor carriers excepted under § 387.31(b)(3).

EFFECTIVE DATE NOTE: At 82 FR 5307, Jan. 17, 2017, § 387.43 was suspended, effective Jan. 14, 2017.

## 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 for-hire motor 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, United States Code, shall engage in interstate or foreign commerce, and no certificate 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, U.S.C., 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), for environmental restoration. Passenger motor carriers exempt under § 387.27 of this part are not subject to this limitation on transportation or required to file evidence of financial responsibility.

(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 § 375.103 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; 81 FR 63709, Oct. 21, 2015; 81 FR 49554, July 28, 2016; 83 FR 22877, May 17, 2018]

EFFECTIVE DATE NOTE: At 82 FR 5307, Jan. 17, 2017, § 387.301 was suspended, effective Jan. 14, 2017.

### § 387.301T 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 § 387.303T, 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 § 387.303T(b)(2), 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 § 387.303T(b)(2), are required to obtain security in the minimum limits prescribed in § 387.303T(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 § 387.303T, 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 § 375.103 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.

[82 FR 5307, Jan. 17, 2017, as amended at 83 FR 22877, May 17, 2018]

### § 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.

(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:

(i) *Small freight vehicles:*

| Kind of equipment | Transportation provided | Minimum limits |
|---|---|---|
| Fleet including only vehicles under 10,001 pounds (4,536 kilograms) GVWR. | Property (non-hazardous) | $300,000 |

(ii) *Passenger carriers.*

PASSENGER CARRIERS: KIND OF EQUIPMENT

| Vehicle seating capacity | Minimum limits |
|---|---|
| (A) Any vehicle with a seating capacity of 16 passengers or more (including the driver) | $5,000,000 |
| (B) Any vehicle designed or used to transport 15 passengers or less (including the driver) for compensation | 1,500,000 |

(iii) *Limits applicable to transit service providers.* Notwithstanding the provisions of paragraph (b)(1)(ii) of this section, the minimum level of financial responsibility for a motor vehicle used to provide transportation services within a transit service area under an agreement with a Federal, State, or local government funded, in whole or in part, with a grant under 49 U.S.C. 5307, 5310 or 5311, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities, will be the highest level required for any of the States in which it operates. This paragraph applies to transit service providers who operate in a transit service area located in more than one State, as well as transit service providers who operate in only one State but interline with other motor carriers that provide interstate transportation within or outside the transit service area. Transit service providers conducting such operations must register as for-hire passenger carriers under part 365, subpart A and part 390, subpart E of this subchapter, identify the State(s) in which they operate under the applicable grants, and certify on their registration documents that they have in effect financial responsibility levels in an amount equal to or greater than the highest level required by any of the States in which they are operating under a qualifying grant.

(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 | Minimum limits |
|---|---|---|
| (i) Freight vehicles of 10,001 pounds (4,536 kilograms) or more GVWR. | Property (non-hazardous) | $750,000 |
| (ii) Freight vehicles of 10,001 (4,536 kilograms) pounds or more GVWR. | Hazardous substances, as defined in §171.8 of this title, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons, or in bulk explosives Division 1,1, 1.2 and 1.3 materials. Division 2.3, Hazard Zone A material; in bulk Division 2.1 or 2.2; or highway route controlled quantities of a Class 7 material, as defined in §173.403 of this title. | 5,000,000 |
| (iii) Freight vehicles of 10,001 pounds (4,536 kilograms) or more GVWR. | Oil listed in §172.101 of this title; hazardous waste, hazardous materials and hazardous substances defined in §171.8 of this title and listed in §172.101 of this title, but not mentioned in paragraph (b)(2)(ii) or paragraph (b)(2)(iv) of this section. | 1,000,000 |
| (iv) Freight vehicles under 10,001 pounds (4,536 kilograms) GVWR. | Any quantity of Division 1.1, 1.2, or 1.3 material; any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; or highway route controlled quantities of Class 7 material as defined in §173.455 of this title. | 5,000,000 |

(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.

(5) 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,

(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]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 387.303, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov*.

EFFECTIVE DATE NOTE: At 82 FR 5307, Jan. 17, 2017, § 387.303 was suspended, effective Jan. 14, 2017. At 84 FR 51433, Sept. 30, 2019, the suspension was lifted and amendments were made to § 387.303. In that same document, § 387.303 was again suspended indefinitely.

### § 387.303T 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.

(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 § 387.301T(a)(1) are required to have security for the required minimum limits as follows:

(i) *Small freight vehicles.*

| Kind of equipment | Transportation provided | Minimum limits |
|---|---|---|
| Fleet including only vehicles under 10,001 pounds (4,536 kilograms) GVWR. | Property (non-hazardous) ..... | $300,000 |

(ii) *Passenger carriers.*

PASSENGER CARRIERS: KIND OF EQUIPMENT

| Vehicle seating capacity | Minimum limits |
|---|---|
| (A) Any vehicle with a seating capacity of 16 passengers or more (including the driver) ..... | $5,000,000 |
| (B) Any vehicle designed or used to transport 15 passengers or less (including the driver) for compensation ..... | 1,500,000 |

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

| Kind of equipment | Commodity transported | Minimum limits |
|---|---|---|
| (i) Freight vehicles of 10,001 pounds (4,536 kilograms) or more GVWR. | Property (non-hazardous) | $750,000 |
| (ii) Freight vehicles of 10,001 (4,536 kilograms) pounds or more GVWR. | Hazardous substances, as defined in §171.8 of this title, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons, or in bulk explosives Division 1,1, 1.2 and 1.3 materials. Division 2.3, Hazard Zone A material; in bulk Division 2.1 or 2.2; or highway route controlled quantities of a Class 7 material, as defined in §173.403 of this title. | 5,000,000 |
| (iii) Freight vehicles of 10,001 pounds (4,536 kilograms) or more GVWR. | Oil listed in §172.101 of this title; hazardous waste, hazardous materials and hazardous substances defined in §171.8 of this title and listed in §172.101 of this title, but not mentioned in paragraph (b)(2)(ii) or paragraph (b)(2)(iv) of this section. | 1,000,000 |
| (iv) Freight vehicles under 10,001 pounds (4,536 kilograms) GVWR. | Any quantity of Division 1.1, 1.2, or 1.3 material; any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A material; or highway route controlled quantities of Class 7 material as defined in §173.455 of this title. | 5,000,000 |

(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 this part.

(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 §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.

(5) Notwithstanding the provisions of §387.301T(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 §387.313T(a)(6) and the reference to cancellation notice at §387.313T(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; and

(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.

[82 FR 5307, Jan. 17, 2017, as amended at 83 FR 22877, May 17, 2018; 84 FR 51433, Sept. 30, 2019]

### §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.

This section is effective January 16, 2026.

(a) *Security.* A broker must have a surety bond or trust fund of $75,000 in

effect. FMCSA will not register a broker until a surety bond or trust fund for the full limits of liability prescribed herein is in effect. The broker registration shall remain in effect only as long as a surety bond or trust fund remains in effect and shall ensure the financial responsibility of the broker. Evidence of a surety bond must be filed using FMCSA's prescribed Form BMC–84. Evidence of a trust fund with a financial institution must be filed using 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 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.

(b) *Acceptable assets.* Trust funds under this section must contain assets aggregating to $75,000 that can be liquidated to cash within 7 calendar days. Acceptable assets included in any trust fund filed under this section are limited to cash, irrevocable letters of credit issued by a federally insured depository institution, and Treasury bonds.

(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:

(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 depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

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

(6) An insurance company; or

(7) 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 FMCSA for the full security limits under paragraph (a) of this section; or Form BMC–85 broker trust fund agreement will be filed with 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 in paragraphs (d)(2)(i) and (d)(2)(ii) of this section.

(i) *Cancellation notice.* The surety bond and the trust fund agreement may be cancelled only upon 30 days' written notice to 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 the notice at FMCSA's Washington, DC office.

(ii) *Termination by replacement.* Broker surety bonds or trust fund agreements which have been accepted by FMCSA under these rules may be replaced by other surety bonds or trust fund agreements, and the liability of the retiring surety or trustee under such surety bond or trust fund agreements shall be considered as having terminated as of the effective date of the replacement surety bond or trust fund agreement. However, such termination shall not affect the liability of the surety or the trustee hereunder for the payment of any damages arising as the result of contracts, agreements or arrangements made by the broker for the supplying of transportation prior to the date such termination becomes effective.

(e) *Immediate suspension.* (1) A surety company issuing a Form BMC–84 or a financial institution issuing a Form BMC–85 must notify FMCSA in writing, by electronic means, when the surety company or financial institution:

(i) Makes a payment, with the consent of the broker, from the surety bond or trust fund for a claim by a

shipper or motor carrier that causes the surety bond or trust fund to fall below $75,000;

(ii) Makes a payment in any case in which the broker does not respond within 7 business days to address the validity of the claim, and the surety provider or financial institution determines that the claim is valid, and the payment causes the surety bond or trust fund to fall below $75,000;

(iii) Makes a payment due to a judgment against the broker that causes the surety bond or trust fund to fall below $75,000; or

(iv) Determines that the broker is experiencing financial failure or insolvency and that the surety company or financial institution will be required to pay one or more claims pursuant to 49 U.S.C. 13906(b)(6) in an amount that will cause the surety bond or trust fund to fall below $75,000. The surety company or financial institution may make this determination when:

(A) It receives one or more claims that, if paid, would reduce the balance of the trust fund or surety bond below the required minimum;

(B) It has notified the broker of such claims and provided 7 business days for the broker to respond to the determination; and

(C) Either the broker fails to respond within the time period provided in paragraph (e)(1)(D)(ii) of this section, or provides a response and the surety company or financial institution nevertheless determines that the claim is legitimate and that the surety company or financial institution expects to make one or more payments on the claim from the bond or trust fund.

(2) Paragraph (e)(1) of this section does not apply when a broker has filed to initiate a proceeding pursuant to Title 11 of the United States Code.

(3) The notification to FMCSA must include the broker's MC number or USDOT number, a description of the reason for the notification, and either:

(i) Evidence of the date a payment was made under paragraphs (e)(1)(i) through (iii) of this section and amount of such payment, or

(ii) A list of currently pending claims, amounts, and evidence that the surety company or financial institution complied with the notification requirements in paragraph (e)(1)(D) of this section.

(4) The notification to FMCSA must be made within 2 business days of a payment or determination.

(5) Upon notification by the surety company or financial institution in accordance with paragraphs (e)(1) through (4) of this section, FMCSA will provide written notice to the broker that its operating authority registration issued pursuant to part 365 of this chapter will be suspended within 7 business days of service of the notice unless the broker provides written evidence to FMCSA that the notification was sent in error, the surety bond or trust fund has been restored to the $75,000 amount required by this section, or the pending claims have been satisfied without the use of surety bond or trust fund assets. FMCSA will consider such evidence and provide written notice to the broker of its determination.

(6) If the broker fails to respond to the notice within 7 business days of service of the notice, FMCSA will enter a suspension of the broker's authority and provide written notice to the broker that the suspension is in effect. A broker whose authority has been suspended may request that FMCSA lift the suspension by providing written evidence that the notification was sent in error; the surety bond or trust fund has been restored to the $75,000 amount required by this section; or the pending claims have been satisfied without the use of surety bond or trust fund assets. FMCSA will consider such evidence and provide written notice to the broker of its determination.

(f) *Financial failure or insolvency of the broker.* (1) For purposes of this section, a *financial failure or insolvency* of a broker is defined as any payment made or other default pursuant to § 387.307(e)(1) not cured in accordance with § 387.307(e)(5) or (6).

(2) For purposes of this provision, a filing related to the broker pursuant to Title 11 of the United States Code does not constitute financial failure or insolvency.

(3) If a surety company or financial institution makes a determination as described in paragraph (f)(1) of this section, such surety company or financial institution shall initiate cancellation

of the Form BMC–84 or Form BMC–85 pursuant to paragraph (d)(2)(i) of this section.

(4) Upon notification by the surety company or financial institution, FMCSA will provide written notice of the cancellation in the FMCSA Register on its public website. The surety or financial institution must accept claims against the BMC–84 surety bond or BMC–85 trust fund for 60 calendar days (extended to the next business day if the final day of the period falls on a weekend or Federal holiday) following FMCSA's public notification of the financial failure or insolvency in the FMCSA Register.

(5) If a surety company or financial institution notifies FMCSA of its determination pursuant to paragraph (e)(1)(iv) that a broker is experiencing financial failure or insolvency and the broker subsequently satisfies all pending claims that would have reduced the surety bond or trust fund below $75,000, the surety company or financial institution must immediately notify FMCSA that the broker is no longer experiencing financial failure or insolvency. Upon receiving evidence from the broker that the surety company or financial institution has terminated the cancellation process and reinstituted the bond or trust, or that the broker has obtained a new bond or trust from another eligible surety company or financial institution, FMCSA will promptly provide written notice in the FMCSA Register on its public website that the financial failure or insolvency has been cured.

(g) *Suspension of surety company or financial institution.* (1) If a surety company or financial institution violates the requirements of this section or 49 U.S.C. 13906(b) or (c), FMCSA shall suspend the authorization of such surety company or financial institution to have its instruments filed as evidence of financial responsibility pursuant to § 387.307 for 3 years.

(2) If FMCSA initiates a suspension action pursuant to paragraph (g)(1) of this section it shall provide written notice to the surety company or financial institution, provide 30 calendar days (extended to the next business day if the final day of the period falls on a weekend or Federal holiday) for the surety company or financial institution to provide evidence contesting such proposed suspension, and then render a final decision in writing.

[88 FR 78672, Nov. 16, 2023, as amended at 89 FR 107026, Dec. 31, 2024; 90 FR 1908, Jan. 10, 2025]

EFFECTIVE DATE NOTE: At 88 FR 78656, Nov. 16, 2023, § 387.307 was stayed, effective Jan. 16, 2024, until Jan. 16, 2025. At 89 FR 107026, Dec. 31, 2024, the suspension was lifted and § 387.307 was amended. In that same document, § 387.307 was again stayed, effective Dec. 31, 2024, until Jan. 16, 2026. At 90 FR 1908, Jan. 10, 2025, the suspension was lifted and § 387.307 was amended. In that same document, § 387.307 was again stayed, effective Jan. 10, 2025, until Jan. 16, 2026.

### § 387.307T Property broker surety bond or trust fund.

This section will remain in effect until January 16, 2026.

(a) *Security.* A broker must have a surety bond or trust fund in effect for $75,000. The FMCSA will not issue a 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.

(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 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 depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

(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 paragraph (a) of this section; 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 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.

(ii) *Termination by replacement.* Broker surety bonds or trust fund agreements which have been accepted by the FMCSA under these rules may be replaced by other surety bonds or trust fund agreements, and the liability of the retiring surety or trustee under such surety bond or trust fund agreements shall be considered as having terminated as of the effective date of the replacement surety bond or trust fund agreement. However, such termination shall not affect the liability of the surety or the trustee hereunder for the payment of any damages arising as the result of contracts, agreements or arrangements made by the broker for the supplying of transportation prior to the date such termination becomes effective.

(3) *Filing and copies.* Broker surety bonds and trust fund agreements must be filed with the FMCSA in duplicate.

[53 FR 10396, Mar. 31, 1988, as amended at 75 FR 72998, Nov. 29, 2010; 78 FR 58482, Sept. 24, 2013; 78 FR 60233, Oct. 1, 2013; 84 FR 51434, Sept. 30, 2019. Redesignated and amended at 88 FR 78672, 78674, Nov. 16, 2023; 89 FR 107026, Dec. 31, 2024]

EFFECTIVE DATE NOTE: At 88 FR 78656 and 78672, Nov. 16, 2023, §387.307T was redesignated from §387.307, and made effective Jan. 16, 2024, until Jan. 16, 2025. At 89 FR 107021, Dec. 31, 2024, the effective date of §387.307T was extended to Jan. 16, 2026, effective Dec. 31, 2024.

### § 387.309 Qualifications as a self-insurer and other securities or agreements.

(a) *As a self-insurer.* The FMCSA will consider and will approve, subject to appropriate and reasonable conditions, the application of a motor carrier to qualify as a self-insurer, if the carrier furnishes a true and accurate statement of its financial condition and other evidence that establishes to the satisfaction of the FMCSA the ability of the motor carrier to satisfy its obligation for bodily injury liability, property damage liability, or cargo liability. Application Guidelines: In addition to filing Form BMC 40, applicants for authority to self-insure against bodily injury and property damage claims should submit evidence that will allow the FMCSA to determine:

(1) The adequacy of the tangible net worth of the motor carrier in relation to the size of operations and the extent of its request for self-insurance authority. Applicant should demonstrate that it will maintain a net worth that will ensure that it will be able to meet its statutory obligations to the public to indemnify all claimants in the event of loss.

(2) *The existence of a sound self-insurance program.* Applicant should demonstrate that it has established, and will maintain, an insurance program that will protect the public against all

claims to the same extent as the minimum security limits applicable to applicant under § 387.303 of this part. Such a program may include, but not be limited to, one or more of the following: Irrevocable letters of credit; irrevocable trust funds; reserves; sinking funds; third-party financial guarantees, parent company or affiliate sureties; excess insurance coverage; or other similar arrangements.

(3) *The existence of an adequate safety program.* Applicant must submit evidence of a current ''satisfactory'' safety rating by the United States Department of Transportation. Non-rated carriers need only certify that they have not been rated. Applications by carriers with a less than satisfactory rating will be summarily denied. Any self-insurance authority granted by the FMCSA will automatically expire 30 days after a carrier receives a less than satisfactory rating from DOT.

(4) *Additional information.* Applicant must submit such additional information to support its application as the FMCSA may require.

(b) *Other securities or agreements.* The FMCSA also will consider applications for approval of other securities or agreements and will approve any such application if satisfied that the security or agreement offered will afford the security for protection of the public contemplated by 49 U.S.C. 13906.

[48 FR 51780, Nov. 14, 1983, and 51 FR 15008, Apr. 22, 1986, as amended at 52 FR 3815, Feb. 6, 1987; 62 FR 49941, Sept. 24, 1997; 68 FR 56199, Sept. 30, 2003]

### § 387.311 Bonds and certificates of insurance.

(a) *Public liability.* Each Form BMC 82 surety bond filed with the FMCSA must be for the full limits of liability required under § 387.303(b)(1). Form MCS–82 surety bonds and other forms of similar import prescribed by the Department of Transportation, may be aggregated to comply with the minimum security limits required under § 387.303(b)(1) or § 387.303(b)(2). Each Form BMC 91 certificate of insurance filed with the FMCSA will always represent the full security minimum limits required for the particular carrier, while it remains in force, under § 387.303(b)(1) or § 387.303(b)(2), whichever is applicable. Any previously executed Form BMC 91 filed before the current revision which is left on file with the FMCSA after the effective date of this regulation, and not canceled within 30 days of that date will be deemed to certify the same coverage limits as would the filing of a revised Form BMC 91. Each Form BMC 91X certificate of insurance filed with the FMCSA will represent the full security limits under § 387.303(b)(1) or § 387.303(b)(2) or the specific security limits of coverage as indicated on the face of the form. If the filing reflects aggregation, the certificate must show clearly whether the insurance is primary or, if excess coverage, the amount of underlying coverage as well as amount of the maximum limits of coverage.* Each Form BMC 91MX certificate of insurance filed with the FMCSA will represent the security limits of coverage as indicated on the face of the form. The Form BMC 91MX must show clearly whether the insurance is primary or, if excess coverage, the amount of underlying coverage as well as amount of the maximum limits of coverage.

(b) *Cargo liability.* Each form BMC 83 surety bond filed with the FMCSA must be for the full limits of liability required under § 387.303(c). Each Form BMC 34 certificate of insurance filed with the FMCSA will represent the full security limits under § 387.303(c) or the specific security limits of coverage as indicated on the face of the form. If the filing reflects aggregation, the certificate must show clearly whether the insurance is primary or, if excess coverage, the amount of underlying coverage as well as amount of the maximum limits of coverage.

(c) Each policy of insurance in connection with the certificate of insurance which is filed with the FMCSA, shall be amended by attachment of the appropriate endorsement prescribed by

*NOTE: Aggregation to meet the requirement of § 387.303(b)(1) will not be allowed until the completion of our rulemaking in Ex Parte No. MC–5 (Sub-No. 2), *Motor Carrier and Freight Forwarder Insurance Procedures and Minimum Amounts of Liability.*

the FMCSA and the certificate of insurance filed must accurately reflect that endorsement.

[47 FR 55944, Dec. 14, 1982, as amended at 48 FR 43332, Sept. 23, 1983; 48 FR 51781, Nov. 14, 1983; 50 FR 40030, Oct. 1, 1985; 62 FR 49941, Sept. 24, 1997; 68 FR 56199, Sept. 30, 2003]

### § 387.313 Forms and procedures.

(a) *Forms for endorsements, certificates of insurance and others*—(1) *In form prescribed.* Endorsements for policies of insurance and surety bonds, certificates of insurance, applications to qualify as a self-insurer, or for approval of other securities or agreements, and notices of cancellation must be in the form prescribed and approved by the FMCSA.

(2) *Aggregation of Insurance.*** When insurance is provided by more than one insurer in order to aggregate security limits for carriers operating only freight vehicles under 10,000 pounds Gross Vehicle Weight Rating, as defined in §387.303(b)(1), a separate *Form BMC 90*, with the specific amounts of underlying and limits of coverage shown thereon or appended thereto, and *Form BMC 91X* certificate is required of each insurer.

For aggregation of insurance for all other carriers to cover security limits under §387.303 (b)(1) or (b)(2), a separate Department of Transportation prescribed form endorsement and *Form BMC 91X* certificate is required of each insurer. When insurance is provided by more than one insurer to aggregate coverage for security limits under §387.303(c) a separate Form BMC 32 endorsement and Form BMC 34 certificate of insurance is required for each insurer.

For aggregation of insurance for foreign motor private carriers of nonhazardous commodities to cover security limits under §387.303(b)(4), a separate Form BMC 90 with the specific amounts of underlying and limits of coverage shown thereon or appended thereto, or Department of Transportation prescribed form endorsement, and Form BMC 91MX certificate is required for each insurer.

(3) *Use of Certificates and Endorsements in BMC Series. Form BMC 91* certificates of insurance will be filed with the FMCSA for the full security limits under §387.303 (b)(1) or (b)(2).

*Form BMC 91X* certificate of insurance will be filed to represent full coverage or any level of aggregation for the security limits under §387.303 (b)(1) or (b)(2).

*Form BMC 90* endorsement will be used with each filing of *Form BMC 91* or *Form 91X* certificate with the FMCSA which certifies to coverage not governed by the requirements of the Department of Transportation. *Form BMC 32* endorsement and *Form BMC 34* certificate of insurance and *Form BMC 83* surety bonds are used for the limits of cargo liability under §387.303(c).

*Form BMC 91MX* certificate of insurance will be filed to represent any level of aggregation for the security limits under §387.303(b)(4).

(4) *Use of Endorsements in MCS Series.* When Security limits certified under §387.303 (b)(1) or (b)(2) involves coverage also required by the Department of Transportation a *Form MCS endorsement* prescribed by the Department of Transportation such as, and including, the *Form MCS 90* endorsement is required.

(5) *Surety bonds.* When surety bonds are used rather than certificates of insurance, *Form BMC 82* is required for the security limits under §387.303(b)(1) not subject to regulation by the Department of Transportation, and *Form MCS 82*, or any form of similar import prescribed by the Department of Transportation, is used for the security limits subject also to minimum coverage requirements of the Department of Transportation.

(6) *Surety bonds and certificates in effect continuously.* Surety bonds and certificates of insurance shall specify that coverage thereunder will remain in effect continuously until terminated as herein provided, except:

**NOTE: See NOTE for Rule 387.311. Also, it should be noted that DOT is considering prescribing adaptations of the Form MCS 90 endorsement and the Form MCS 82 surety bond for use by passenger carriers and Rules §§387.311 and 387.313 have been written sufficiently broad to provide for this contingency when new forms are prescribed by that Agency.

(i) When filed expressly to fill prior gaps or lapses in coverage or to cover grants of emergency temporary authority of unusually short duration and the filing clearly so indicates, or

(ii) In special or unusual circumstances, when special permission is obtained for filing certificates of insurance or surety bonds on terms meeting other particular needs of the situation.

(b) *Filing and copies.* Certificates of insurance, surety bonds, and notices of cancellation must be filed with the FMCSA at *http://www.fmcsa.dot.gov*.

(c) *Name of insured.* Certificates of insurance and surety bonds shall be issued in the full and correct name of the individual, partnership, corporation or other person to whom the certificate, permit, or license is, or is to be, issued. In the case of a partnership, all partners shall be named.

(d) *Cancellation notice.* Except as provided in paragraph (e) of this section, surety bonds, certificates of insurance, and other securities or agreements shall not be cancelled or withdrawn until 30 days after written notice has been submitted to *http://www.fmcsa.dot.gov* on the prescribed form (Form BMC–35, Notice of Cancellation Motor Carrier Policies of Insurance under 49 U.S.C. 13906, and BMC–36, Notice of Cancellation Motor Carrier and Broker Surety Bonds, as appropriate) by the insurance company, surety or sureties, motor carrier, broker or other party thereto, as the case may be, which period of thirty (30) days shall commence to run from the date such notice on the prescribed form is filed with FMCSA at *http://www.fmcsa.dot.gov*.

(e) *Termination by replacement.* Certificates of insurance or surety bonds which have been accepted by the FMCSA under these rules may be replaced by other certificates of insurance, surety bonds or other security, and the liability of the retiring insurer or surety under such certificates of insurance or surety bonds shall be considered as having terminated as of the effective date of the replacement certificate of insurance, surety bond or other security, provided the said replacement certificate, bond or other security is acceptable to the FMCSA under the rules and regulations in this part.

[47 FR 55944, Dec. 14, 1982, as amended at 48 FR 43334, Sept. 23, 1983; 48 FR 51781, Nov. 14, 1983; 50 FR 40030, Oct. 1, 1985; 51 FR 34623, Sept. 30, 1986; 62 FR 49941, Sept. 24, 1997; 75 FR 35328, June 22, 2010; 80 FR 63709, Oct. 21, 2015; 83 FR 22877, May 17, 2018; 84 FR 51434, Sept. 30, 2019]

EFFECTIVE DATE NOTE: At 82 FR 5308, Jan. 17, 2017, § 387.313 was suspended, effective Jan. 14, 2017. At 84 FR 51434, Sept. 30, 2019, the suspension was lifted and amendments were made to § 387.313. In that same document, § 387.313 was again suspended indefinitely.

### § 387.313T Forms and procedures.

(a) *Forms for endorsements, certificates of insurance and others*—(1) *In form prescribed.* Endorsements for policies of insurance and surety bonds, certificates of insurance, applications to qualify as a self-insurer, or for approval of other securities or agreements, and notices of cancellation must be in the form prescribed and approved by the FMCSA.

(2) *Aggregation of insurance.* (i) When insurance is provided by more than one insurer in order to aggregate security limits for carriers operating only freight vehicles under 10,000 pounds Gross Vehicle Weight Rating, as defined in § 387.303T(b)(1), a separate *Form BMC 90*, with the specific amounts of underlying and limits of coverage shown thereon or appended thereto, and *Form BMC 91X* certificate is required of each insurer.

**NOTE: See Note for Rule 387.311. Also, it should be noted that DOT is considering prescribing adaptations of the *Form MCS 90* endorsement and the *Form MCS 82* surety bond for use by passenger carriers and Rules §§ 387.311 and 387.313T have been written sufficiently broad to provide for this contingency when new forms are prescribed by that Agency.

(ii) For aggregation of insurance for all other carriers to cover security limits under § 387.303T(b)(1) or (2), a separate Department of Transportation prescribed form endorsement and *Form BMC 91X* certificate is required of each insurer. When insurance is provided by more than one insurer to aggregate coverage for security limits under § 387.303T(c) a separate *Form BMC 32* endorsement and *Form BMC 34* certificate

of insurance is required for each insurer.

(iii) For aggregation of insurance for foreign motor private carriers of nonhazardous commodities to cover security limits under § 387.303T(b)(4), a separate *Form BMC 90* with the specific amounts of underlying and limits of coverage shown thereon or appended thereto, or Department of Transportation prescribed form endorsement, and *Form BMC 91MX* certificate is required for each insurer.

(3) *Use of certificates and endorsements in BMC Series.* Form BMC 91 certificates of insurance will be filed with the FMCSA for the full security limits under § 387.303T(b)(1) or (2).

(i) *Form BMC 91X* certificate of insurance will be filed to represent full coverage or any level of aggregation for the security limits under § 387.303T(b)(1) or (2).

(ii) *Form BMC 90* endorsement will be used with each filing of *Form BMC 91* or *Form 91X* certificate with the FMCSA which certifies to coverage not governed by the requirements of the Department of Transportation. *Form BMC 32* endorsement and *Form BMC 34* certificate of insurance and *Form BMC 83* surety bonds are used for the limits of cargo liability under § 387.303T(c).

(iii) *Form BMC 91MX* certificate of insurance will be filed to represent any level of aggregation for the security limits under § 387.303T(b)(4).

(4) *Use of endorsements in MCS Series.* When Security limits certified under § 387.303T(b)(1) or (b)(2) involves coverage also required by the Department of Transportation a Form MCS endorsement prescribed by the Department of Transportation such as, and including, the Form MCS 90 endorsement is required.

(5) *Surety bonds.* When surety bonds are used rather than certificates of insurance, Form BMC 82 is required for the security limits under § 387.303T(b)(1) not subject to regulation by the Department of Transportation, and Form MCS 82, or any form of similar import prescribed by the Department of Transportation, is used for the security limits subject also to minimum coverage requirements of the Department of Transportation.

(6) *Surety bonds and certificates in effect continuously.* Surety bonds and certificates of insurance shall specify that coverage thereunder will remain in effect continuously until terminated as herein provided, except:

(i) When filed expressly to fill prior gaps or lapses in coverage or to cover grants of emergency temporary authority of unusually short duration and the filing clearly so indicates; or

(ii) In special or unusual circumstances, when special permission is obtained for filing certificates of insurance or surety bonds on terms meeting other particular needs of the situation.

(b) *Filing and copies.* Certificates of insurance, surety bonds, and notices of cancellation must be filed with the FMCSA.

(c) *Name of insured.* Certificates of insurance and surety bonds shall be issued in the full and correct name of the individual, partnership, corporation or other person to whom the certificate, permit, or license is, or is to be, issued. In the case of a partnership, all partners shall be named.

(d) *Cancellation notice.* Except as provided in paragraph (e) of this section, surety bonds, certificates of insurance and other securities or agreements shall not be cancelled or withdrawn until 30 days after written notice has been submitted to the FMCSA at its offices in Washington, DC, on the prescribed form (*Form BMC–35*, Notice of Cancellation Motor Carrier Policies of Insurance under 49 U.S.C. 13906, and *BMC–36*, Notice of Cancellation Motor Carrier and Broker Surety Bonds, as appropriate) by the insurance company, surety or sureties, motor carrier, broker or other party thereto, as the case may be, which period of thirty (30) days shall commence to run from the date such notice on the prescribed form is actually received by the FMCSA.

(e) *Termination by replacement.* Certificates of insurance or surety bonds which have been accepted by the FMCSA under these rules may be replaced by other certificates of insurance, surety bonds or other security, and the liability of the retiring insurer or surety under such certificates of insurance or surety bonds shall be considered as having terminated as of the

effective date of the replacement certificate of insurance, surety bond or other security, provided the said replacement certificate, bond or other security is acceptable to the FMCSA under the rules and regulations in this part.

[82 FR 5308, Jan. 17, 2017, as amended at 83 FR 16226, Apr. 16, 2018; 84 FR 51434, Sept. 30, 2019]

### § 387.315 Insurance and surety companies.

A certificate of insurance or surety bond will not be accepted by the FMCSA unless issued by an insurance or surety company that is authorized (licensed or admitted) to issue bonds or underlying insurance policies:

(a) In each State in which the motor carrier is authorized by the FMCSA to operate, or

(b) In the State in which the motor carrier has its principal place of business or domicile, and will designate in writing upon request by the FMCSA, a person upon whom process, issued by or under the authority of a court of competent jurisdiction, may be served in any proceeding at law or equity brought in any State in which the carrier operates, or

(c) In any State, and is eligible as an excess or surplus lines insurer in any State in which business is written, and will make the designation of process agent described in paragraph (b) of this section.

(d) In the Province or Territory of Canada in which a Canadian motor carrier has its principal place of business or domicile, and will designate in writing upon request by FMCSA, a person upon whom process, issued by or under the authority of a court of competent jurisdiction, may be served in any proceeding at law or equity brought in any State in which the carrier operates.

[56 FR 28111, June 19, 1991, as amended at 75 FR 38430, July 2, 2010; 78 FR 58482, Sept. 24, 2013]

### § 387.317 Refusal to accept, or revocation by the FMCSA of surety bonds, etc.

The FMCSA may, at any time, refuse to accept or may revoke its acceptance of any surety bond, certificate of insurance, qualifications as a self-insurer, or other securities or agreements if, in its judgment such security does not comply with these sections or for any reason fails to provide satisfactory or adequate protection for the public. Revocation of acceptance of any certificate of insurance, surety bond or other security shall not relieve the motor carrier from compliance with § 387.301(c).

[47 FR 55945, Dec. 14, 1982, as amended at 62 FR 49942, Sept. 24, 1997; 80 FR 59073, Oct. 1, 2015]

### § 387.319 Fiduciaries.

(a) *Definitions.* The terms ''insured'' and ''principal'' as used in a certificate of insurance, surety bond, and notice of cancellation, filed by or for a motor carrier, include the motor carrier and its fiduciary as of the moment of succession. The term ''fiduciary'' means any person authorized by law to collect and preserve property of incapacitated, financially disabled, bankrupt, or deceased holders of operating rights, and assignees of such holders.

(b) *Insurance coverage in behalf of fiduciaries to apply concurrently.* The coverage furnished under the provisions of this section on behalf of fiduciaries shall not apply subsequent to the effective date of other insurance, or other security, filed with and approved by the FMCSA in behalf of such fiduciaries. After the coverage provided in this section shall have been in effect thirty (30) days, it may be cancelled or withdrawn within the succeeding period of thirty (30) days by the insurer, the insured, the surety, or the principal upon ten (10) days' notice in writing to the FMCSA at its office in Washington, DC, which period of ten (10) days shall commence to run from the date such notice is actually received by the FMCSA. After such coverage has been in effect for a total of sixty (60) days, it may be cancelled or withdrawn only in accordance with § 1043.7.

[32 FR 20032, Dec. 20, 1967, as amended at 47 FR 49596, Nov. 1, 1982; 47 FR 55945, Dec. 14, 1982; 55 FR 11197, Mar. 27, 1990]

### § 387.321 Operations in foreign commerce.

No motor carrier may operate in the United States in the course of transportation between places in a foreign

country or between a place in one foreign country and a place in another foreign country unless and until there shall have been filed with and accepted by the FMCSA a certificate of insurance, surety bond, proof of qualifications as a self-insurer, or other securities or agreements in the amount prescribed in §387.303(b), 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 between places in a foreign country or between a place in one foreign country and a place in another foreign country, insofar as such transportation takes place in the United States, or for loss of or damage to property of others. The security for the protection of the public required by this section shall be maintained in effect at all times and shall be subject to the provisions of §§387.309 through 387.319. The requirements of §387.315(a) shall be satisfied if the insurance or surety company, in addition to having been approved by the FMCSA, is legally authorized to issue policies or surety bonds in at least one of the States in the United States, or one of the Provinces in Canada, and has filed with the FMCSA the name and address of a person upon whom legal process may be served in each State in or through which the motor carrier operates. Such designation may from time to time be changed by like designation similarly filed, but shall be maintained during the effectiveness of any certificate of insurance or surety bond issued by the company, and thereafter with respect to any claims arising during the effectiveness of such certificate or bond. The term ''motor carrier'' as used in this section shall not include private carriers or carriers operating under the partial exemption from regulation in 49 U.S.C. 13503 and 13506.

[47 FR 55945, Dec. 14, 1982, as amended at 62 FR 49942, Sept. 24, 1997]

### §387.323 Electronic filing of surety bonds, trust fund agreements, certificates of insurance and cancellations.

(a) Insurers must electronically file forms BMC 34, BMC 35, BMC 36, BMC 82, BMC 83, BMC 84, BMC 85, BMC 91, and BMC 91X in accordance with the requirements and procedures set forth in paragraphs (b) through (d) of this section.

(b) Each insurer must obtain authorization to file electronically by registering with the FMCSA. An individual account number and password for computer access will be issued to each registered insurer.

(c) Filings may be transmitted online via the internet at: *https://li-public.fmcsa.dot.gov*.

(d) All registered insurers agree to furnish upon request to the FMCSA a copy of any policy (or policies) and all certificates of insurance, endorsements, surety bonds, trust fund agreements, proof of qualification to self-insure or other insurance filings.

[80 FR 63710, Oct. 21, 2015]

EFFECTIVE DATE NOTE: At 82 FR 5308, Jan. 17, 2017, §387.323 was suspended, effective Jan. 14, 2017. At 86 FR 57072, Oct. 14, 2021, the suspension was lifted and an amendment was made to §387.323. In that same document, §387.323 was again suspended indefinitely.

### §387.323T Electronic filing of surety bonds, trust fund agreements, certificates of insurance and cancellations.

(a) Insurers may, at their option and in accordance with the requirements and procedures set forth in paragraphs (a) through (d) of this section, file forms BMC 34, BMC 35, BMC 36, BMC 82, BMC 83, BMC 84, BMC 85, BMC 91, and BMC 91X electronically, in lieu of using the prescribed printed forms.

(b) Each insurer must obtain authorization to file electronically by registering with the FMCSA. An individual account number and password for computer access will be issued to each registered insurer.

(c) Filings may be transmitted online via the internet at: *https://li-public.fmcsa.dot.gov* or via American Standard Code Information Interchange (ASCII). All ASCII transmission must be in fixed format, *i.e.,* all records must have the same number of fields and same length. The record layouts for ASCII electronic transactions are described in the following table:

ELECTRONIC INSURANCE FILING TRANSACTIONS

| Field name | Number of positions | Description | Required F = filing C = cancel B = both | Start field | End field |
|---|---|---|---|---|---|
| Record type | 1 Numeric | 1 = Filing, 2 = Cancellation | B | 1 | 1 |
| Insurer number | 8 Text | FMCSA Assigned Insurer Number (Home Office) With Suffix (Issuing Office), If Different, *e.g.,* 12345–01. | B | 2 | 9 |
| Filing type | 1 Numeric | 1 = BI&PD, 2 = Cargo, 3 = Bond, 4 = Trust Fund. | B | 10 | 10 |
| FMCSA docket number | 8 Text | FMCSA Assigned MC or FF Number, *e.g.,* MC000045. | B | 11 | 18 |
| Insured legal name | 120 Text | Legal Name | B | 19 | 138 |
| Insured d/b/a name | 60 Text | Doing Business As Name If Different From Legal Name. | B | 139 | 198 |
| Insured address | 35 Text | Either street or mailing address | B | 199 | 233 |
| Insured city | 30 Text | | B | 234 | 263 |
| Insured state | 2 Text | | B | 264 | 265 |
| Insured zip code | 9 Numeric | (Do not include dash if using 9 digit code) | B | 266 | 274 |
| Insured country | 2 Text | (Will default to U.S.) | B | 275 | 276 |
| Form code | 10 Text | BMC–91, BMC–91X, BMC–34, BMC–35, etc | B | 277 | 286 |
| Full, primary or excess coverage. | 1 Text | If BMC–91X, P or E = indicator of primary or excess policy; 1 = Full under § 387.303T(b)(1); 2 = Full under § 387.303T(b)(2). | F | 287 | 287 |
| Limit of liability | 5 Numeric | $ in Thousands | F | 288 | 292 |
| Underlying limit of liability. | 5 Numeric | $ in Thousands (will default to $000 if Primary) | F | 293 | 297 |
| Effective date | 8 Text | MM/DD/YY Format for both Filing or Cancellation. | B | 298 | 305 |
| Policy number | 25 Text | Surety companies may enter bond number | B | 306 | 330 |

(d) All registered insurers agree to furnish upon request to the FMCSA a duplicate original of any policy (or policies) and all endorsements, surety bond, trust fund agreement, or other filing.

[82 FR 5308, Jan. 17, 2017, as amended at 86 FR 57072, Oct. 14, 2021]

## Subpart D—Surety Bonds and Policies of Insurance for Freight Forwarders

SOURCE: 55 FR 11201, Mar. 27, 1990, unless otherwise noted. Redesignated at 61 FR 54710, Oct. 21, 1996.

### § 387.401 Definitions.

(a) *Freight forwarder* means a person holding itself out to the general public (other than as an express, pipeline, rail, sleeping car, motor, or water carrier) to provide transportation of property for compensation in interstate commerce, and in the ordinary course of its business:

(1) Performs or provides for assembling, consolidating, break-bulk, and distribution of shipments; and

(2) Assumes responsibility for transportation from place of receipt to destination; and

(3) Uses for any part of the transportation a carrier subject to FMCSA jurisdiction.

(b) *Household goods freight forwarder* (HHGFF) means a freight forwarder of household goods, unaccompanied baggage, or used automobiles.

(c) *Motor vehicle* means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used to transport property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails. The following combinations will be regarded as one motor vehicle:

(1) A tractor that draws a trailer or semitrailer; and

(2) A truck and trailer bearing a single load.

### § 387.403 General requirements.

(a) *Cargo.* A household goods freight forwarder may not operate until it has filed with FMCSA an appropriate surety bond, certificate of insurance, qualifications as a self-insurer, or

other securities or agreements, in the amounts prescribed at §387.405, for loss of or damage to household goods.

(b) *Public liability.* A freight forwarder may not perform transfer, collection, or delivery service until it has filed with the FMCSA an appropriate surety bond, certificate of insurance, qualifications as a self-insurer, or other securities or agreements, in the amounts prescribed at §387.405, conditioned to pay any final judgment recovered against such freight forwarder for bodily injury to or the death of any person, or loss of or damage to property (except cargo) of others, or, in the case of freight vehicles described at §387.303(b)(2), for environmental restoration, resulting from the negligent operation, maintenance, or use of motor vehicles operated by or under its control in performing such service.

(c) *Surety bond or trust fund.* A freight forwarder must have a surety bond or trust fund in effect. The FMCSA will not issue a freight forwarder license until a surety bond or trust fund for the full limit of liability prescribed in §387.405 is in effect. The freight forwarder license shall remain valid or effective only as long as a surety bond or trust fund remains in effect and ensures the financial responsibility of the freight forwarder. The requirements applicable to property broker surety bonds and trust funds in §387.307 shall apply to the surety bond or trust fund required by this paragraph.

[80 FR 63709, Oct. 21, 2015]

EFFECTIVE DATE NOTE: At 82 FR 5310, Jan. 17, 2017, §387.403 was suspended, effective Jan. 14, 2017.

### §387.403T General requirements.

(a) *Cargo.* A household goods freight forwarder may not operate until it has filed with FMCSA an appropriate surety bond, certificate of insurance, qualifications as a self-insurer, or other securities or agreements, in the amounts prescribed in §387.405, for loss of or damage to household goods.

(b) *Public liability.* A HHGFF may not perform transfer, collection, and delivery service until it has filed with the FMCSA an appropriate surety bond, certificate of insurance, qualifications as a self-insurer, or other securities or agreements, in the amounts prescribed at §387.405, conditioned to pay any final judgment recovered against such HHGFF for bodily injury to or the death of any person, or loss of or damage to property (except cargo) of others, or, in the case of freight vehicles described at §387.303T(b)(2), for environmental restoration, resulting from the negligent operation, maintenance, or use of motor vehicles operated by or under its control in performing such service.

(c) *Surety bond or trust fund.* A freight forwarder must have a surety bond or trust fund in effect. The FMCSA will not issue a freight forwarder license until a surety bond or trust fund for the full limit of liability prescribed in §387.405 is in effect. The freight forwarder 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 freight forwarder. The requirements applicable to property broker surety bonds and trust funds in §387.307 shall apply to the surety bond or trust fund required by this paragraph (c).

[82 FR 5310, Jan. 17, 2017]

### §387.405 Limits of liability.

The minimum amounts for cargo and public liability security are identical to those prescribed for motor carriers at 49 CFR 387.303. The minimum amount for the surety bond or trust fund is identical to that prescribed for brokers at 49 CFR 387.307.

[78 FR 60233, Oct. 1, 2013]

### §387.407 Surety bonds and certificates of insurance.

(a) The limits of liability under §387.405 may be provided by aggregation under the procedures at 49 CFR part 387, subpart C.

(b) Each policy of insurance used in connection with a certificate of insurance filed with the FMCSA shall be amended by attachment of the appropriate endorsement prescribed by the FMCSA (or the Department of Transportation, where applicable).

[55 FR 11201, Mar. 27, 1990. Redesignated at 61 FR 54710, Oct. 21, 1996, as amended at 62 FR 49942, Sept. 24, 1997]

### § 387.409 Insurance and surety companies.

A certificate of insurance or surety bond will not be accepted by the FMCSA unless issued by an insurance or surety company that is authorized (licensed or admitted) to issue bonds or underlying insurance policies:

(a) In each State in which the freight forwarder is authorized by the FMCSA to perform service, or

(b) In the State in which the freight forwarder has its principal place of business or domicile, and will designate in writing upon request by the FMCSA, a person upon whom process, issued by or under the authority of a court of competent jurisdiction, may be served in any proceeding at law or equity brought in any State in which the freight forwarder performs service; or

(c) In any State, and is eligible as an excess or surplus lines insurer in any State in which business is written, and will make the designation of process agent prescribed in paragraph (b) of this section.

(d) In the Province or Territory of Canada in which a Canadian freight forwarder has its principal place of business or domicile, and will designate in writing upon request by FMCSA, a person upon whom process, issued by or under the authority of a court of competent jurisdiction, may be served in any proceeding at law or equity brought in any State in which the freight forwarder operates.

[56 FR 28111, June 19, 1991, as amended at 75 FR 38430, July 2, 2010; 78 FR 58482, Sept. 24, 2013]

### § 387.411 Qualifications as a self-insurer and other securities or agreements.

(a) *Self-insurer*. The FMCSA will approve the application of a freight fowarder to qualify as a self-insurer if it is able to meet its obligations for bodily-injury, property-damage, and cargo liability without adversely affecting its business.

(b) *Other securities and agreements*. The FMCSA will grant applications for approval of other securities and agreements if the public will be protected as contemplated by 49 U.S.C. 13906(c).

[55 FR 11201, Mar. 27, 1990. Redesignated at 61 FR 54710, Oct. 21, 1996, as amended at 62 FR 49942, Sept. 24, 1997]

### § 387.413 Forms and procedures.

(a) *Forms*. Endorsements for policies of insurance, surety bonds, certificates of insurance, applications to qualify as a self-insurer or for approval of other securities or agreements, and notices of cancellation must be in the form prescribed at 49 CFR part 387, subpart C.

(b) *Procedure*. Certificates of insurance, surety bonds, and notices of cancellation must be electronically filed with the FMCSA.

(c) *Names*. Certificates of insurance and surety bonds shall be issued in the full name (including any trade name) of the individual, partnership (all partners named), corporation, or other person holding or to be issued the permit.

(d) *Cancellation*. Except as provided in paragraph (e) of this section, certificates of insurance, surety bonds, and other securities and agreements shall not be cancelled or withdrawn until 30 days after the FMCSA receives written notice from the insurance company, surety, freight forwarder, or other party, as the case may be.

(e) *Termination by replacement*. Certificates of insurance or surety bonds may be replaced by other certificates of insurance, surety bonds, or other security, and the liability of the retiring insurer or surety shall be considered as having terminated as of the replacement's effective date, if acceptable to the FMCSA.

[55 FR 11201, Mar. 27, 1990. Redesignated at 61 FR 54710, Oct. 21, 1996, as amended at 62 FR 49942, Sept. 24, 1997; 75 FR 35329, June 22, 2010; 80 FR 63710, Oct. 21, 2015; 84 FR 51434, Sept. 30, 2019]

EFFECTIVE DATE NOTE: At 82 FR 5310, Jan. 17, 2017, § 387.413 was suspended, effective Jan. 14, 2017. At 84 FR 51434, Sept. 30, 2019, the suspension was lifted and amendments were made to § 387.413. In that same document, § 387.413 was again suspended indefinitely.

### § 387.413T Forms and procedures.

(a) *Forms*. Endorsements for policies of insurance, surety bonds, certificates of insurance, applications to qualify as

a self-insurer or for approval of other securities or agreements, and notices of cancellation must be in the form prescribed at subpart C of this part.

(b) *Procedure.* Certificates of insurance, surety bonds, and notices of cancellation must be filed with the FMCSA.

(c) *Names.* Certificates of insurance and surety bonds shall be issued in the full name (including any trade name) of the individual, partnership (all partners named), corporation, or other person holding or to be issued the permit.

(d) *Cancellation.* Except as provided in paragraph (e) of this section, certificates of insurance, surety bonds, and other securities and agreements shall not be cancelled or withdrawn until 30 days after the FMCSA receives written notice from the insurance company, surety, freight forwarder, or other party, as the case may be.

(e) *Termination by replacement.* Certificates of insurance or surety bonds may be replaced by other certificates of insurance, surety bonds, or other security, and the liability of the retiring insurer or surety shall be considered as having terminated as of the replacement's effective date, if acceptable to the FMCSA.

[82 FR 5310, Jan. 17, 2017, as amended at 83 FR 16226, Apr. 16, 2018; 84 FR 51434, Sept. 30, 2019]

### § 387.415 Acceptance and revocation by the FMCSA.

The FMCSA may at any time refuse to accept or may revoke its acceptance of any surety bond, certificate of insurance, qualifications as a self-insurer, or other security or agreement that does not comply with these rules or fails to provide adequate public protection.

### § 387.417 Fiduciaries.

(a) *Interpretations.* The terms ''insured'' and ''principal'' as used in a certificate of insurance, surety bond, and notice of cancellation, filed by or for a freight forwarder, include the freight forwarder and its fiduciary (as defined at 49 CFR 387.319(a)) as of the moment of succession.

(b) *Span of security coverage.* The coverage furnished for a fiduciary shall not apply after the effective date of other insurance or security, filed with and accepted by the FMCSA for such fiduciary. After the coverage shall have been in effect 30 days, it may be cancelled or withdrawn within the succeeding 30 days by the insurer, the insured, the surety, or the principal 10 days after the FMCSA receives written notice. After such coverage has been in effect 60 days, it may be cancelled or withdrawn only in accordance with § 387.413(d).

[55 FR 11201, Mar. 27, 1990. Redesignated at 61 FR 54710, Oct. 21, 1996, as amended at 62 FR 49942, Sept. 24, 1997]

### § 387.419 Electronic filing of surety bonds, certificates of insurance and cancellations.

Insurers must electronically file certificates of insurance, surety bonds, and other securities and agreements and notices of cancellation in accordance with the requirements and procedures set forth at § 387.323.

[80 FR 63710, Oct. 21, 2015]

EFFECTIVE DATE NOTE: At 82 FR 5310, Jan. 17, 2017, § 387.419 was suspended, effective Jan. 14, 2017.

### § 387.419T Electronic filing of surety bonds, certificates of insurance and cancellations.

Insurers may, at their option and in accordance with the requirements and procedures set forth at § 387.323T, file certificates of insurance, surety bonds, and other securities and agreements electronically.

[82 FR 5310, Jan. 17, 2017]

## APPENDIX A TO PART 387—APPLICABILITY OF THE REGISTRATION, FINANCIAL RESPONSIBILITY, AND SAFETY REGULATIONS TO MOTOR CARRIERS OF PASSENGERS

For additional guidance on the application of financial responsibility regulations to motor carriers of passengers, refer to appendix A to part 390 of this subchapter.

[87 FR 68372, Nov. 15, 2022]

# PART 388 [RESERVED]