

**§ 387.11**

[59 FR 63923, Dec. 12, 1994]

**§ 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.

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

**§ 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 (Illustration I) and surety bonds (Illustration II) 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 en-

**49 CFR Ch. III (10-1-02 Edition)**

dorsement and surety bond shall be issued in the exact name of the motor carrier.

ILLUSTRATION I

Form MCS-90 (3/82)  
Form Approved  
OMB No. 2125-0074

ENDORSEMENT FOR MOTOR CARRIER POLICIES OF INSURANCE FOR PUBLIC LIABILITY UNDER SECTIONS 29 AND 30 OF THE MOTOR CARRIER ACT OF 1980

Issued to \_\_\_\_\_  
of \_\_\_\_\_  
Dated at \_\_\_\_\_  
this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
Amending Policy No. \_\_\_\_\_  
Effective Date \_\_\_\_\_  
Name of Insurance Company \_\_\_\_\_  
Countersigned by \_\_\_\_\_  
*Authorized Company Representative*

The policy to which this endorsement is attached provides primary or excess insurance, as indicated by "X", for the limits shown:

- This insurance is primary and the company shall not be liable for amounts in excess of \$\_\_\_\_\_ for each accident.
- This insurance is excess and the company shall not be liable for amounts in excess of \$\_\_\_\_\_ for each accident in excess of the underlying limit of \$\_\_\_\_\_ for each accident.

Whenever required by the FMCSA the company agrees to furnish the FMCSA a duplicate of said policy and all its endorsements. The company also agrees, upon telephone request by an authorized representative of the FMCSA, to verify that the policy is in force as of a particular date. The telephone number to call is: \_\_\_\_\_

Cancellation of this endorsement may be effected by the company or the insured by giving (1) thirty-five (35) days notice in writing to the other party (said 35 days notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the insured is subject to the FMCSA's jurisdiction, by providing thirty (30) days notice to the FMCSA (said 30 days notice to commence from the date the notice is received by the FMCSA at its office in Washington, DC).

DEFINITIONS AS USED IN THIS ENDORSEMENT

*Accident* includes continuous or repeated exposure to conditions which results in bodily injury, property damage, or environmental damage which the insured neither expected or intended.

*Motor Vehicle* means a land vehicle, machine, truck, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway for transporting property, or any combination thereof.

**Federal Motor Carrier Safety Administration, DOT**

**§ 387.15**

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

*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 measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife.

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

*Public Liability* means liability for bodily injury, property damage, and environmental restoration.

The insurance policy to which this endorsement is attached provides automobile liability insurance and is amended to assure compliance by the insured, within the limits stated herein, as a motor carrier of property, with sections 29 and 30 of the Motor Carrier Act of 1980 and the rules and regulations of the Federal Motor Carrier Safety Administration.

In consideration of the premium stated in the policy to which this endorsement is attached, the insurer (the company) agrees to pay, within the limits of liability described herein, any final judgment recovered against the insured for public liability resulting from negligence in the operation, maintenance or use of motor vehicles subject to the financial responsibility requirements of sections 29 and 30 of the Motor Carrier Act of 1980 regardless of whether or not each motor vehicle is specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized to be served by the insured or elsewhere. Such insurance as is afforded, for public liability, does not apply to injury to or death of the insured's employees while engaged in the course of their employment, or property transported by the insured, designated as cargo. It is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, this endorsement, or any other endorsement thereon, or violation thereof, shall relieve the company from liability or from the payment of any final judgment, within the limits of liability herein described, irrespective of the financial condition, insolvency or bankruptcy of the insured. However, all terms, conditions, and limitations in the policy to which the endorsement is attached shall remain in full force and effect as binding between the insured and the company. The insured agrees to reimburse the company for any payment made by the company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment

that the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

It is further understood and agreed that, upon failure of the company to pay any final judgment recovered against the insured as provided herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the company to compel such payment.

The limits of the company's liability for the amounts prescribed in this endorsement apply separately to each accident and any payment under the policy because of any one accident shall not operate to reduce the liability of the company for the payment of final judgments resulting from any other accident.

**ILLUSTRATION II**

Form MCS-82 (4/83)

(Form approved by Office of Management and Budget under control no. 2125-0075)

**MOTOR CARRIER PUBLIC LIABILITY SURETY BOND UNDER SECTIONS 29 AND 30 OF THE MOTOR CARRIER ACT OF 1980**

Parties	Surety company and principal place of business address	Motor carrier principal, FMCSA Docket No. and principal place of business
.....	.....	.....
.....	.....	.....
.....	.....	.....

*Purpose*— This is an agreement between the Surety and the Principal under which the Surety, its successors and assignees, agree to be responsible for the payment of any final judgment or judgments against the Principal for public liability, property damage, and environmental restoration liability claims in the sums prescribed herein; subject to the governing provisions and the following conditions.

*Governing provisions*—(1) Sections 29 and 30 of the Motor Carrier Act of 1980 (49 U.S.C. 13906).

(2) Rules and regulations of the Federal Motor Carrier Safety Administration.

*Conditions*— The Principal is or intends to become a motor carrier of property subject to the applicable governing provisions relating to financial responsibility for the protection of the public.

§ 387.17

49 CFR Ch. III (10-1-02 Edition)

This bond assures compliance by the Principal with the applicable governing provisions, and shall inure to the benefit of any person or persons who shall recover a final judgment or judgments against the Principal for public liability, property damage, or environmental restoration liability claims (excluding injury to or death of the Principal's employees while engaged in the course of their employment, and loss of or damage to property of the principal, and the cargo transported by the Principal). If every final judgment shall be paid for such claims resulting from the negligent operation, maintenance, or use of motor vehicles in transportation subject to the applicable governing provisions, then this obligation shall be void, otherwise it will remain in full effect.

Within the limits described herein, the Surety extends to such losses regardless of whether such motor vehicles are specifically described herein and whether occurring on the route or in the territory authorized to be served by the Principal or elsewhere.

The liability of the Surety on each motor vehicle subject to the financial responsibility requirements of Section's 29 and 30 of the Motor Carrier Act of 1980 for each accident shall not exceed \$ \_\_\_\_\_, and shall be a continuing one notwithstanding any recovery hereunder.

The surety agrees, upon telephone request by an authorized representative of the FMCSA, to verify that the surety bond is in force as of a particular date. The telephone number is: \_\_\_\_\_

This bond is effective from \_\_\_\_\_ (12:01 a.m., standard time, at the address of the Principal as stated herein) and shall countine in force until terminated as described herein. The principal or the Surety may at any time terminate this bond by giving (1) thirty five (35) days notice in writing to the other party (said 35 day notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the Principal is subject to the FMCSA's jurisdiction, by providing thirty (30) days notice to the FMCSA (said 30 days notice to commence from the date notice is received by the FMCSA at its office

in Washington, DC). The Surety shall not be liable for the payment of any judgment or judgments against the Principal for public liability, property damage, or environmental restoration claims resulting from accidents which occur after the termination of this bond as described herein, but such termination shall not affect the liability of the Surety for the payment of any such judgment or judgments resulting from accidents which occur during the time the bond is in effect.

(AFFIX CORPORATE SEAL)

Date \_\_\_\_\_  
Surety \_\_\_\_\_  
City \_\_\_\_\_  
State \_\_\_\_\_  
By \_\_\_\_\_

ACKNOWLEDGEMENT OF SURETY

State of \_\_\_\_\_  
County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me personally came \_\_\_\_\_, who, being by me duly sworn, did depose and say that he/she resides in \_\_\_\_\_; that he/she is the \_\_\_\_\_ of the \_\_\_\_\_, the corporation described in and which executed the foregoing instrument; that he/she knows the seal of said corporation, that the seal affixed to said instrument is such corporate seal, that it was so affixed by order of the board of directors of said corporation, that he/she signed his/her name thereto by like order, and he/she duly acknowledged to me that he/she executed the same for and on behalf of said corporation.

(OFFICIAL SEAL)

Title of official administering oath \_\_\_\_\_  
Surety Company File No. \_\_\_\_\_

[46 FR 30982, June 11, 1981, as amended at 48 FR 52683, Nov. 21, 1983; 49 FR 27292, July 2, 1984; 49 FR 38290, Sept. 28, 1984; 51 FR 33856, Sept. 23, 1986; 53 FR 12160, Apr. 13, 1988; 54 FR 49092, Nov. 29, 1989; 59 FR 63924, Dec. 12, 1994]

§ 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 civil penalty of no more than \$11,000 for each violation, and if any such violation is a continuing one, each day of violation will constitute a separate offense. The amount of any such penalty shall be assessed by the FMCSA's Administrator, by written notice. In