

§ 387.41

§ 387.41 Violation and penalty.

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

[53 FR 47543, Nov. 23, 1988]

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

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

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

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

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

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

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

(b) *Common carriers-cargo insurance; exempt commodities.* No common carrier by motor vehicle subject to Subtitle IV, part B, chapter 135 of title 49 of the U.S. Code nor any foreign (Mexican) common carrier of exempt commodities shall engage in interstate or foreign commerce, nor shall any certificate be issued to such a 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 shippers or consignees for all property belonging to shippers or consignees and coming into the possession of such carrier in connection with its transportation service: *Provided*, That the requirements of this paragraph shall not apply in connection with the transportation of the following commodities:

Agricultural ammonium nitrate.
Agricultural nitrate of soda.
Anhydrous ammonia—used as a fertilizer only.
Ashes, wood or coal.
Bituminous concrete (also known as black-top or amosite), including mixtures of asphalt paving.
Cement, dry, in containers or in bulk.
Cement, building blocks.
Charcoal.
Chemical fertilizer.
Cinder blocks.
Cinders, coal.
Coal.
Coke.
Commercial fertilizer.
Concrete materials and added mixtures.
Corn cobs.
Cottonseed hulls.

Crushed stone.
 Drilling salt.
 Dry fertilizer.
 Fish scrap.
 Fly ash.
 Forest products; viz: Logs, billets, or bolts, native woods, Canadian wood or Mexican pine; pulpwood, fuel wood, wood kindling; and wood sawdust or shavings (shingle tow) other than jewelers' or paraffined.
 Foundry and factory sweepings.
 Garbage.
 Gravel, other than bird gravel.
 Hardwood and parquet flooring.
 Haydite.
 Highway construction materials, when transported in dump trucks and unloaded at destination by dumping.
 Ice.
 Iron ore.
 Lime and limestone.
 Liquid fertilizer solutions, in bulk, in tank vehicles.
 Lumber.
 Manure.
 Meat scraps.
 Mud drilling salt.
 Ores, in bulk, including ore concentrates.
 Paving materials, unless contain oil hauled in tank vehicles.
 Peat moss.
 Peeler cores.
 Plywood.
 Poles and piling, other than totem poles.
 Potash, used as commercial fertilizer.
 Pumice stone, in bulk in dump vehicles.
 Salt, in bulk or in bags.
 Sand, other than asbestos, bird, iron, monazite, processed, or tobacco sand.
 Sawdust.
 Scoria stone.
 Scrap iron.
 Scrap steel.
 Shells, clam, mussel, or oyster.
 Slag, other than slag with commercial value for the further extraction of metals.
 Slag, derived aggregates—cinders.
 Slate, crushed or scrap.
 Slurry, as waste material.
 Soil, earth or marl, other than infusorial, diatomaceous, tripoli, or inoculated soil or earth.
 Stone, unglazed and unmanufactured, including ground agricultural limestone.
 Sugar beet pulp.
 Sulphate of ammonia, bulk, used as fertilizer.
 Surfactants.
 Trap rock.
 Treated poles.
 Veneer.
 Volcanic scoria.
 Waste, hazardous and nonhazardous, transported solely for purposes of disposal.
 Water, other than mineral or prepared—water.

Wood chips, not processed.
 Wooden pallets, unassembled.
 Wreck or disabled motor vehicles.
 Other materials or commodities of low value, upon specific application to and approval by the FMCSA.

(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]

§ 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 10,000 pounds GVWR.	Commodities not subject to § 387.303(b)(2).	\$300,000

(ii) *Passenger carriers*

KIND OF EQUIPMENT	Effective dates	
	Nov. 19, 1983	Nov. 19, 1985
Vehicle seating capacity		
(1) Any vehicle with a seating capacity of 16 passengers or more	\$2,500,000	\$5,000,000
(2) Any vehicle with a seating capacity of 15 passengers or less	750,000	1,500,000

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