

(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 freight forwarder (including a HHGFF) may not operate 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, for loss of or damage to property.

(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 49 CFR 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.

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

§ 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.

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

§ 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

§ 387.411

will make the designation of process agent prescribed in paragraph (b) of this section.

[56 FR 28111, June 19, 1991]

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

(a) *Self-insurer.* The FMCSA will approve the application of a freight forwarder 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 procedure.

(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 filed with the FMCSA in triplicate.

(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 replace-

49 CFR Ch. III (10-1-05 Edition)

ment'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]

§ 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 may, at their option and in accordance with the requirements and procedures set forth at 49 CFR 387.323, file certificates of insurance, surety bonds, and other securities and agreements electronically.

[60 FR 16811, Apr. 3, 1995, as amended at 62 FR 49942, Sept. 24, 1997]