

§ 387.41 Violation and penalty.

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

[53 FR 47543, Nov. 23, 1988]

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

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

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

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

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

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

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

(b) *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 blacktop 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.