**Section 385.1020 Unsatisfactory Rated Motor Carriers**

a) Upon written notification from the FMCSA to a motor carrier that it has received a final "unsatisfactory" rating by the FMCSA under 49 CFR 385, that motor carrier shall not operate a commercial motor vehicle listed in Section 385.1000 in Illinois.

b) When a carrier subject to the prohibition in Section 385.1000 is known to operate a commercial motor vehicle in Illinois, the Department will issue an order placing those operations out-of-service in Illinois. The order will be served as prescribed under 92 Ill. Adm. Code 386.1020.

c) Any motor carrier placed out-of-service by the Department pursuant to subsection (b) of this Section may appeal that order to the Secretary, who will investigate the matter.

1) Appeals shall be filed in writing with the Secretary no more than 20 days after the out-of-service order is served as prescribed under 92 Ill. Adm. Code 386.1020. The appeal shall contain the reason for the appeal and a contact person's name, address and telephone number.

2) The Secretary's designee will appoint a Department employee to investigate every appeal submitted to the Department in accordance with this Part. The operations declared out-of-service shall remain out-of-service in Illinois during the duration of the investigation.

3) The Department's investigation will be concluded within 30 days after the receipt of the appeal by the Department.

4) Within the 30 day investigative period, the Secretary will issue written notification to the petitioner indicating the Department's determination as to the correctness or incorrectness of the out-of-service order remaining in effect.

5) The Department's written notification, served by certified mail return receipt requested, will include a statement of the facts relied upon and issues decided by the Department in making its determination. The Department's determination is considered administratively final.

d) Any motor carrier whose safety rating of "unsatisfactory" has become final under 49 CFR 385, that has been ordered out-of-service in Illinois by the Department and that has exhausted the appeal procedure or not timely filed an appeal under subsection (c) of this Section and that then willfully operates a commercial motor vehicle in Illinois described in Section 385.1000 will be referred by the Department to a State's Attorney or the Attorney General for prosecution of a Class 3 felony.

e) Any person who willfully permits a motor carrier to operate a commercial motor vehicle in Illinois as described in subsection (d) of this Section will be referred by the Department to a State's Attorney or Attorney General for prosecution of a Class 3 felony.

f) The Department will rescind its out-of-service order issued under this Section within five business days after being notified that the FMCSA has rescinded the "unsatisfactory" rating or will not assign a final "unsatisfactory" rating to the motor carrier. After verification of the rescission from the FMCSA, written notification of the rescission will be sent within that time period by certified mail to the motor carrier.

(Source: Amended at 32 Ill. Reg. 10374, effective June 25, 2008)