**Section 386.1320 Initial Exemptions: Application and Review**

a) A public utility may apply to the Director for an exemption from the IMCSR as described in Section 386.1310(b) and (c).

b) Each application filed under this Section for an exemption must:

1) Be submitted to:

Director, Division of Traffic Safety

Illinois Department of Transportation

P.O. Box 19212

1340 N. 9th St.

Springfield, Illinois 62794-9212;

2) Reference the exemption being sought under Section 386.1310;

3) State the name, address and telephone number of the applicant;

4) Certify that the vehicles for which an exemption is sought are used for the delivery of essential utility services to the public;

5) Certify that the public utility systematically inspects, repairs and maintains all commercial motor vehicles operating under the exemption as incorporated by reference in 92 Ill. Adm. Code 396. Parts and accessories shall be in safe and proper operating condition at all times. This Subpart C does not provide for exemption from the semi-annual inspection required by the Illinois Vehicle Inspection Law [625 ILCS 5/13-101 and 13-109];

6) For vehicles controlled by the public utility for 30 consecutive days or more, the utility must maintain or cause to be maintained records as incorporated by reference in 92 Ill. Adm. Code 396. If requested, the public utility must make these records available for inspection by an officer of the Department;

7) Certify that the firm's drivers of the commercial motor vehicles fully comply with the driver qualification standards outlined in 92 Ill. Adm. Code 391;

8) Submit the number of commercial motor vehicles owned or leased by the firm having a GVWR or GCWR of 26,000 pounds or less for which an exemption is requested;

9) Submit the number of commercial motor vehicles owned or leased by the firm having a GVWR or GCWR greater than 26,000 pounds for which hours of service relief is requested;

10) Make available for inspection by an officer of the Department comprehensive fleet accident information for the previous two years and annual total fleet mileage (See 92 Ill. Adm. Code 390.1020 for definition of accident.);

11) Identify any increased risks that are likely to result if an exemption is granted, and specify the safety control measures that the applicant considers necessary or appropriate to compensate for those increased risks;

12) State the reasons why the applicant believes the requested exemption, including any safety control measures specified by the applicant, will achieve a level of safety that:

A) Is at least equal to that specified in the IMCSR from which the exemption is sought; or

B) If the IMCSR do not contain a specified level of safety, will be consistent with the public interest and will protect against the risks of life and property;

13) Certify that the transportation described in the requested exemption is not governed by the FMCSR.

c) If the applicant seeks to have the application processed on a priority basis, the applicant must set forth the supporting facts and reasons. If the Director, or his/her designated officer, determines that the request warrants priority consideration because of an emergency as defined in 92 Ill. Adm. Code 390.1020, the application will be processed as timely as practicable.

d) To permit timely consideration, an application should be submitted at least 60 days before the requested effective date.

e) If the applicant states that the information contained in the application constitutes trade secrets or commercial or financial information, the applicant must include a statement as to why the information is privileged or confidential.

f) Upon receipt by the Division, the application will be date and time-stamped. The Division will determine whether the application is complete and in conformance with this Subpart C. Incomplete applications will be returned along with a letter containing the reasons the application is incomplete. In that case, the applicant will be requested to supply additional information or documentation. An applicant that does not supply such additional information or documentation will not be approved.

g) When the Division determines that the application is complete, an on-site visit will be conducted within 60 calendar days after receipt of that determination to verify that, for example, driver qualification requirements are being met and that the required vehicle repair, inspection and maintenance records are being maintained.

h) A decision regarding the granting of an exemption will be based upon the application and record assembled by the Division.

i) A letter of approval will be mailed by the Director, or his/her designated officer, to the applicant granting the exemption. The exemption is effective for a two year period from the date of the approval letter.

j) A letter of denial containing a statement of the reasons why the applicant has not been granted an exemption and the provisions of Subpart C that support the denial will be mailed to applicants denied exemptions. Applicants denied an exemption may:

1) Correct deficiencies listed in the letter of denial and reapply if the application can be modified to meet the Department's objections as specified in the letter of denial; or

2) Appeal the decision (see Section 386.1350 for appeal procedures).

k) At any time there is a material change in the application or in any information relevant to the exemption, the applicant shall promptly notify the Division. Failure to notify the Division will result in termination of the exemption.

(Source: Amended at 37 Ill. Reg. 18316, effective November 4, 2013)