

## CHAPTER 07 – STATE HIGHWAY PATROL

### SUBCHAPTER 07A – ENFORCEMENT REGULATIONS

#### SECTION .0100 – ENFORCEMENT REGULATIONS

##### **14B NCAC 07A .0101 REQUEST FOR ASSISTANCE**

(a) In the event state assistance is deemed necessary by local officials to assist with riots, mob violence or other civil disturbances, local government officials shall contact the local Highway Patrol troop commander, district supervisor, patrol communications center, patrol headquarters in Raleigh, or any available patrol member. Local officials shall state the nature of the emergency and the need for state assistance.

(b) If time will permit, a patrol member may be immediately assigned to the scene to assess the situation and to inform patrol headquarters officials as to the existing situation and as to assistance needed.

(c) The patrol member assigned to assess the situation shall ascertain the following:

- (1) whether local authorities have utilized all of their own forces and are unable to control the situation; or
- (2) whether control of the situation is beyond the capabilities of the local authorities; or
- (3) whether local authorities are taking appropriate action.

*History Note:* Authority G.S. 20-184; 20-185; 20-187; 20-188;  
Eff. November 21, 1977;  
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Transferred from 14A NCAC 09H .0201 Eff. June 1, 2013;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.

##### **14B NCAC 07A .0102 COMMITMENT OF FORCES**

(a) Only the Patrol Commander or his designated representative shall authorize the actual commitment of patrol forces to assist local officials with civil disturbances, after obtaining permission of the Secretary of the Department of Crime Control and Public Safety or his representative or the Governor. Provided, however, that pending instructions from patrol headquarters, the ranking patrol official on the scene shall have the authority to temporarily commit such forces as are necessary to control an emergency situation where it reasonably appears that the lives of citizens are endangered or the destruction of public or private property is threatened.

(b) Patrol forces will work under the control of patrol officers, and patrol members will assist in coordinating activities of all state patrol and local official agencies involved. Any unlawful or unauthorized act on the part of any patrol member will not be excusable on the grounds that it was the result of an order or request received from a local officer or civil official.

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Eff. November 21, 1977;  
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##### **14B NCAC 07A .0103 DEFINITIONS**

The following definitions shall apply to the words and phrases found in this Chapter.

- (1) Applicant. A person or corporation owning a wrecker service and applying for inclusion on the Patrol Rotation Wrecker List.
- (2) Wrecker Service. A person or corporation engaged in the business of, or offering the services of, and owning a wrecker service or towing service whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle manufactured and designed for the primary purpose of removing and towing disabled motor vehicles.
- (3) Car Carrier or "Rollback". A car carrier or rollback is a vehicle transport designed to tow or carry vehicles damage-free. The truck chassis shall have a minimum gross vehicle weight rating (GVWR) of 14,500 pounds. Two lift cylinders, minimum two and one-half inch bore; Individual power winch pulling capacity of not less than 8,000 pounds; a length of wire rope (cable) on

- winch drum with a working load limit (WLL) that meets or exceeds the pulling capacity of the power winch utilized; and four tie down hook safety chains. The carrier bed shall be a minimum of 16 feet in length and a minimum of 84 inches in width inside side rails. A cab protector, constructed of aluminum or steel, must extend a minimum of 10 inches above the height of the bed. A "rollback" is not considered a small or large wrecker.
- (4) Computerized Rotation Wrecker List. The names of those Wrecker Services that have been approved by the District First Sergeant to be included on the Patrol Rotation Log and entered in the Computer Assisted Dispatch (CAD) System. There shall be separate rotation wrecker lists for large and small wreckers for each Rotation Wrecker Zone.
  - (5) Debris. Includes any parts of a vehicle or material that may be strewn upon the surface of the roadway or highway right-of-way as a result of the collision and which may reasonably be cleared or removed. This definition shall also include any mud, soil, antifreeze, transmission, brake or other liquids/fluids that have been deposited onto the surface of the roadway as a result of a vehicle collision. Debris does not include cargo from property hauling vehicles or hazardous materials that are required to be handled by local hazardous materials teams.
  - (6) Large Wrecker. A truck chassis having a minimum gross vehicle weight (GVWR) of 26,001 pounds and a boom assembly having a minimum lifting capacity of 40,000 pounds as rated by the manufacturer; tandem axles or cab to axle length of no less than 102 inches; a length of wire rope (cable) with a working load limit (WLL) that meets or exceeds the pulling capacity of the power winch utilized on each drum; airbrake so constructed as to lock wheels automatically upon failure; and additional safety equipment as specified by the rules in this Chapter.
  - (7) Manual Rotation Wrecker List. A list of names of those wreckers that have been approved by the District First Sergeant to be included on the Patrol Rotation Wrecker List and entered into a Manual list that is to be used only when the CAD System is down. There shall be separate manual lists for large and small wreckers for each Rotation Wrecker Zone. These lists shall be maintained by the Troop Communications Center.
  - (8) Minor Violations. Violations of the rules in this Chapter which do not require removal for a definitive time, may be readily corrected, and do not involve a criminal act or pose a threat to the safety and well being of the public.
  - (9) Major Violations. All violations of the rules in this Chapter not determined to be minor.
  - (10) Open Enrollment Period. The period of time between November 1st and November 30th each calendar year in which applications or reapplications for inclusion to the Highway Patrol Rotation Wrecker List for the next calendar year may be submitted.
  - (11) Rotation Wrecker List. A list of wrecker services that have met the rules of the Patrol and whose vehicles are properly registered with the Division of Motor Vehicles.
  - (12) Removal. Being taken off the Patrol Rotation Wrecker List for a determinate or indeterminate period of time.
  - (13) Storage Facility. A lighted off street storage facility secured by a minimum 6 foot high chain link fence, or a fence of similar strength, or other barrier sufficient to deter trespassing or vandalism; and where all entrances and exits are secure from public access. The lot shall be of sufficient size to accommodate all vehicles towed by the wrecker service for the Patrol. Storage facilities shared by two or more wrecker services may not be used to satisfy the facility requirement in Rule .0321(a)(2) of this Section.
  - (14) Small Wrecker means a truck chassis having a minimum gross vehicle weight (GVWR) rating of 10,000 pounds and a maximum GVWR that does not exceed 26,000 pounds; a boom assembly having a minimum lifting power of 8,000 pounds as rated by the manufacturer; an 8,000 pound rated winch with a length of wire rope (cable) on winch drum with a working load limit (WLL) that meets or exceeds the pulling capacity of the power winch utilized; a belt-type tow plate or tow sling assembly; a wheel-lift with a retracted lifting capacity of no less than 3,500 pounds; dual rear wheels; and additional safety equipment as specified by the rules in this Chapter.
  - (15) Rotation Wrecker Zone means a geographic area which may encompass all or part of a District of a Troop.
  - (16) Member means all uniformed personnel of the Patrol who are charged with enforcement duties.

*History Note: Authority G.S. 20-184; 20-185; 20-187; 20-188;  
Temporary Adoption Eff. June 9, 2000;*

*Eff. April 1 2001;*  
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## **CHAPTER 07 – STATE HIGHWAY PATROL**

### **SUBCHAPTER 07A – ENFORCEMENT REGULATIONS**

#### **SECTION .0100 – ENFORCEMENT REGULATIONS**

##### **14B NCAC 07A .0104 VEHICLE REMOVAL PROCEDURES**

- (a) Vehicles on the paved or main-traveled portion of the highway:
- (1) A member who encounters a vehicle parked, disabled from a collision, or otherwise left standing on the paved or main-traveled portion of the highway shall:
    - (A) remove the vehicle to a position off the roadway;
    - (B) with consent from the owner, operator, or legal possessor, arrange the transportation and storage of the vehicle; or
    - (C) without consent from the owner, operator, or legal possessor, arrange the transportation and storage of the vehicle if the vehicle presents a hazard, a potential hazard or otherwise as authorized by State law.
  - (2) A member shall permit an objecting owner, operator, or legal possessor to remove a vehicle to a safe position off the roadway, if the driver is competent and licensed to drive the vehicle. A member may arrange to transport and store a vehicle that cannot be safely parked off the roadway as authorized in this Rule.
- (b) Vehicles off the paved or main-traveled portion of the highway:
- (1) A member investigating an accident or collision in which a disabled vehicle is located off the paved or main-traveled portion of the highway may arrange the transportation and storage of the vehicle. If the owner, operator, or legal possessor objects, a member shall not transport and store a vehicle unless, as standing, the vehicle creates a hazard.
  - (2) A member who observes a vehicle unlawfully parked or disabled on the right-of-way, but not on the main-traveled portion of the highway, may remove and store the vehicle only if the vehicle interferes with the regular flow of traffic or otherwise constitutes a hazard.
  - (3) A member shall not arrange the transportation and storage of a vehicle unlawfully parked on the highway right-of-way that does not interfere with the regular flow of traffic or otherwise constitutes a hazard until the vehicle remains on the highway right-of-way for a period of 24 hours or more, has been vandalized, or is otherwise abandoned.
- (c) Vehicles subject to seizure - Vehicles that are authorized by law to be seized or which may be evidence in a criminal proceeding may be towed and stored.

*History Note: Authority G.S. 20-184; 20-188;*  
*Temporary Adoption Eff. June 9, 2000;*  
*Eff. April 1, 2001;*  
*Transferred from 14A NCAC 09H .0309 Eff. June 1, 2013;*  
*Readopted Eff. January 1, 2019.*

##### **14B NCAC 07A .0105 SECURING VEHICLES WHEN OPERATOR IS ARRESTED**

Upon arresting or placing a vehicle operator in custody, a member shall:

- (1) With consent of owner, operator, or legal possessor, allow another licensed, competent person to drive or move the vehicle to a position off the roadway; or
- (2) If no licensed, competent person is present, or if the owner, operator, or legal possessor will not consent to such removal, then a member may move the vehicle, if necessary, to a position off the roadway, lock the vehicle and return the key to the owner, operator, or legal possessor, except that, in any case where the operator of the vehicle is arrested for DWI, a member shall either turn the keys over to the magistrate or jailer or to a sober, responsible person.

*History Note: Authority G.S. 20-184; 20-188;  
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Transferred from 14A NCAC 09H .0310 Eff. June 1, 2013;  
Readopted Eff. January 1, 2019.*

**14B NCAC 07A .0106 VEHICLES TRANSPORTED AND STORED OVER OBJECTION OF OWNER**

A member may transport and store a vehicle over the objection or without consent of the owner, operator, or legal possessor when:

- (1) The vehicle cannot be lawfully parked off the roadway;
- (2) The vehicle is lawfully parked off the roadway but creates a hazard;
- (3) The owner, operator, or legal possessor refuses or is unable to remove the vehicle from the roadway;
- (4) The vehicle is subject to seizure pursuant to G.S. 20-28.3 or other lawful authority; or
- (5) The vehicle is being detained pursuant to G.S. 20-96.

*History Note: Authority G.S. 20-184; 20-188;  
Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Amended Eff. July 18, 2008;  
Transferred from 14A NCAC 09H .0311 Eff. June 1, 2013;  
Readopted Eff. January 1, 2019.*

**14B NCAC 07A .0107 PARKING VEHICLES OFF THE ROADWAY**

(a) A member who removes or allows a vehicle to be removed to a position off the roadway shall, when circumstances permit:

- (1) Lawfully park the vehicle in an apparently safe and secure location off the main-traveled portion of the highway; or
- (2) Place the vehicle in a position that creates no apparent hazard or other interference with the regular flow of traffic.

(b) A member shall take reasonable precautions to secure the vehicle and its contents against theft, vandalism, and other damage by locking the vehicle (if possible) and returning the keys to the owner, operator, or legal possessor. In any case where the operator of the vehicle is arrested for DWI, a member shall either turn the keys over to the magistrate or jailer or, when appropriate, to a sober, responsible person.

*History Note: Authority G.S. 20-184; 20-188;  
Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Transferred from 14A NCAC 09H .0312 Eff. June 1, 2013;  
Readopted Eff. January 1, 2019.*

**14B NCAC 07A .0108 TRANSPORTING AND STORING VEHICLES**

(a) When necessary for accident reconstruction or a criminal investigation when multiple vehicles are involved in an incident, a single storage location shall be designated. The storage facility of the first wrecker service dispatched shall be used unless otherwise designated by a supervisor.

(b) When necessary for an accident reconstruction or a criminal investigation, a member shall designate the indoor or other storage facility a vehicle shall be stored to ensure preservation of the evidence. The storage facility shall be the first wrecker service dispatched unless otherwise designated by a supervisor.

(c) DWI seized vehicles shall be towed and stored in accordance with instructions from the State or regional contractor.

(d) Vehicles stored pursuant to G.S. 20-96 shall be held by the towing or storage company until all civil assessment(s) have been satisfied and release is approved by the investigating member.

*History Note: Authority G.S. 20-184; 20-188;*

*Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Amended Eff. July 18, 2008;  
Transferred from 14A NCAC 09H .0313 Eff. June 1, 2013;  
Readopted Eff. January 1, 2019.*

#### **14B NCAC 07A .0109 NOTIFICATION**

(a) Unless exempted by vehicle seizure law, the Troop Communications Center must notify the registered owner when a vehicle is towed and stored. In order to accomplish this, the authorizing member shall immediately notify the appropriate Troop Communications Center of the following:

- (1) a description of the vehicle;
- (2) the place where the vehicle is stored;
- (3) the procedure the owner must follow to have the vehicle returned to him or her; and
- (4) the procedure the owner must follow to request a probable cause hearing on the towing.

(b) Upon notification by the authorizing member, the Troop Communications Center shall, as soon as practicable, attempt to notify the owner of the towing or storage. The Troop Communications Center shall attempt to contact the owner by telephone and provide the owner with the location of the vehicle. At least three attempts shall be made for vehicles registered in North Carolina and one attempt for vehicles registered out-of-state. The Telecommunicator shall record the person contacted or the attempts made.

(c) In the absence of an HP-305 (Vehicle Towing Authorization) signed by the registered owner, Form Letter HPC-305.2 (Vehicle Towing/Notification, which is a form letter computer-generated at the Troop Communications Center) shall be mailed to the owner within 24 hours. A duplicate copy of the Form Letter HPC-305.2 is also computer-generated and will print automatically in the District office of the member. Whether or not the owner is reached by telephone, a copy of the Form Letter HPC-305.2 shall be mailed to the last registered owner by the Troop Communications Center.

(d) Whenever a vehicle with neither a valid registration plate nor registration is towed, in the absence of an HP-305 signed by the registered owner, the authorizing member shall attempt, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him or her of the information listed in Paragraph (a) of this Rule. Attempts shall include checking the vehicle identification number (VIN).

(e) Whenever a vehicle is seized pursuant to G.S. 20-28.3, the charging officer shall complete and forward the appropriate DMV notification form to DMV and to the statewide contractor within 24 hours.

*History Note: Authority G.S. 20-28.3; 20-184; 20-188;  
Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Amended Eff. July 18, 2008;  
Transferred from 14A NCAC 09H .0314 Eff. June 1, 2013;  
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#### **14B NCAC 07A .0110 RELEASE OF VEHICLES**

If no legal justification to hold the vehicle exists, a member shall authorize the release of a stored vehicle to the owner upon proof of ownership.

*History Note: Authority G.S. 20-184; 20-187; 20-188;  
Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Amended Eff. July 18, 2008;  
Transferred from 14A NCAC 09H .0315 Eff. June 1, 2013;  
Readopted Eff. January 1, 2019.*

#### **14B NCAC 07A .0111 VEHICLE INVENTORY**

(a) A member who authorizes the transportation and storage of a vehicle in the absence of Form Letter HP-305 signed by the owner, operator, or legal possessor shall take precautions to protect all property in and on the vehicle prior to removal from the scene.

(b) A Form Letter HP-305 signed by the owner, operator, or legal possessor is documentation that the vehicle was not removed from the possession of such person; therefore, the completion of a vehicle inventory is not required.

(c) The storage and security of the vehicle and its contents become the responsibility of the wrecker service when the vehicle is towed from the scene and stored at the wrecker service storage facility. If the vehicle is to be stored at a Patrol facility, the storing member shall conduct an inventory, itemizing all property contained in the vehicle.

(d) All vehicles inventoried pursuant to this Rule shall be inventoried at the time of storage unless an emergency situation dictates otherwise. The inventory shall list all items that are toxic, explosive, flammable, or of monetary value. Unless locked or securely wrapped, all containers in the vehicle, whether open or closed, shall be opened to determine contents unless evidence is discovered to indicate that opening the container may subject the member to exposure of toxic, flammable, or explosive substances. Locked or securely wrapped luggage, packages, and containers shall not be opened except as otherwise authorized by law or by owner consent, but shall be indicated on the inventory list as locked or securely wrapped items. Locked or securely wrapped containers (luggage, attaché cases, etc.) shall be considered as units of inventory and shall not be searched without obtaining consent or a search warrant unless there is evident danger to the member or public. The member shall seek to obtain a search warrant when there is probable cause for a search of the vehicle or its contents when time and conditions permit.

*History Note:* Authority G.S. 20-184; 20-187; 20-188;  
Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Amended Eff. July 18, 2008;  
Transferred from 14A NCAC 09H .0316 Eff. June 1, 2013;  
Readopted Eff. January 1, 2019.

#### **14B NCAC 07A .0112 REIMBURSEMENT OF WRECKER OPERATORS**

If a court orders the release of any vehicle without payment of transportation and storage costs, the member shall obtain a statement of the transportation and storage fees. The Patrol may decide to appeal this court order. If the Patrol does not appeal, then the Patrol shall compensate the wrecker operator for reasonable transportation and storage fees in cases where no appeal is taken. When an appeal is taken, the Patrol shall not compensate wrecker operators until all appeals are exhausted.

*History Note:* Authority G.S. 20-184; 20-187; 20-188;  
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#### **14B NCAC 07A .0113 FINANCIAL INTEREST**

*History Note:* Authority G.S. 20-184; 20-185; 20-187; 20-188;  
Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Transferred from 14A NCAC 09H .0318 Eff. June 1, 2013;  
Repealed Eff. January 1, 2019.

#### **14B NCAC 07A .0114 IMPARTIAL USE OF SERVICES**

The Patrol shall use wrecker services to tow disabled, seized, wrecked, or abandoned vehicles. Members of the Patrol shall assure the impartial use of wrecker services through compliance with this Subchapter. In no event shall any member recommend any wrecker service, motor club, or automobile membership service to the owner or driver of a wrecked or disabled vehicle, nor shall any member recommend the services of a particular wrecker service, motor club, or automobile membership service in the performance of his or her duties. Members shall, whenever possible and practicable, dispatch the wrecker service requested by the motorist requiring such services.

*History Note:* Authority G.S. 20-184; 20-187; 20-188;  
Temporary Adoption Eff. June 9, 2000;  
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Transferred from 14A NCAC 09H .0319 Eff. June 1, 2013;  
Readopted Eff. January 1, 2019.

#### **14B NCAC 07A .0115 ROTATION, ZONE, CONTRACT, AND DEVIATION FROM SYSTEM**

(a) The Troop Commander shall arrange for the Telecommunications Center to maintain a rotation wrecker system within each District of the Troop that shall include any of the following:

- (1) Separate computerized large and small rotation wrecker lists and manual rotation lists for the entire District, whereby wrecker services are called in the order they appear on a list;
- (2) A zone system within the District, with a rotation wrecker list being maintained in each Rotation Wrecker Zone;
- (3) A zone, contract, or other system operated in conjunction with one or more local agencies; or
- (4) A combination of any such system.

(b) The Patrol member shall use the wrecker service requested by the vehicle owner or person in apparent control of the motor vehicle to be towed. Patrol members shall not attempt to influence the person's choice of wrecker services, but may answer questions and provide factual information. If no such request is made, the Patrol system in place in the Rotation Wrecker Zone shall be used, absent an emergency.

(c) The Troop Commander may deviate from any provisions in this Rule in emergency situations if there are insufficient wrecker services of the type needed within a District to meet the needs of the Patrol.

(d) Whenever vehicles are removed pursuant to G.S. 20-161(f), the investigating member(s) may request the closest available zone rotation wrecker service or available Department of Transportation (DOT) resource for the purpose of removing the obstruction from the roadway. Members shall ensure that the requested wrecker service is capable of responding without delay and is staffed and equipped to handle the request for service. All requests for assistance from DOT shall be made through the appropriate Telecommunications Center, where a list of on-duty/recall DOT personnel with the authority to concur with the decision to implement Quick Clearance shall be maintained.

*History Note: Authority G.S. 20-184; 20-187; 20-188;  
Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Amended Eff. July 18, 2008;  
Transferred from 14A NCAC 09H .0320 Eff. June 1, 2013;  
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#### **14B NCAC 07A .0116 ROTATION WRECKER SERVICE REGULATIONS**

(a) The Troop Commander shall include on the rotation wrecker list only those wrecker services that agree in writing to adhere to the following provisions:

- (1) A wrecker service desiring to be included on the rotation wrecker list shall complete a wrecker application on a form designated by the Patrol. This application and all forms referenced in this Rule may be accessed at [www.ncdps.gov](http://www.ncdps.gov), State Highway Patrol, Wrecker Inspections tab. All applications shall be submitted to the appropriate District First Sergeant.
- (2) In order to be listed on a rotation wrecker list within a rotation wrecker zone, a wrecker service shall have a full-time business office within that rotation wrecker zone that is staffed and open 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding State holidays, and a storage facility. The wrecker service shall have someone available to accept telephone calls from the Patrol, to allow access to towed vehicles, or to retrieve towed vehicles by the registered owner, operator, or legal possessor during business hours. The business office may not be the same physical address as the owner's residence unless zoned for commercial purposes and advertised as a business property. A representative from the wrecker service shall be available on call on a 24-hour basis for emergencies. The wrecker service shall allow vehicles to be retrieved between the hours of 8:00 a.m. and 5:00 p.m., seven days a week, excluding State holidays. An individual (registered owner, legal possessor, or operator) shall not be charged a storage fee for days that he or she could not retrieve his or her vehicle as a result of an action or omission on the part of the wrecker service, such as where the wrecker service was not open, did not answer the telephone, or a representative was not available to release the vehicle.
- (3) Wrecker service facilities and equipment, including vehicles, office, telephone lines, office equipment, and storage facilities shall not be shared with or otherwise located on the property of another wrecker service and shall be independently insured. Vehicles towed at the request of the Patrol shall be placed in the storage owned and operated by the wrecker service on the rotation wrecker list. A storage facility for a small wrecker shall be located within the assigned zone. For

wrecker services with large wreckers, the storage facility for vehicles towed with the large wrecker may be located anywhere within the county. To be listed on the large rotation wrecker list, a wrecker service shall have at least one large wrecker located within the county and designated for the sole use in that county. To be listed on the small rotation wrecker list, a wrecker service shall have at least one small wrecker located within the assigned zone and designated for the sole use in that assigned zone. A wrecker shall not be on more than one rotation wrecker list. In any case where husband and wife or other family members are engaged in the business of towing vehicles and desire to list each business separately on the wrecker rotation list, the wrecker service shall establish that it is a separate legal entity for every purpose, including federal and state tax purposes. Nothing in this Rule precludes a wrecker service from responding to private calls outside the assigned zone or county.

- (4) Each wrecker shall be equipped with legally required lighting and other safety equipment to protect the public and the equipment must be in good working order.
- (5) Each wrecker on the rotation wrecker list shall be equipped with the equipment required on the application list and the equipment shall be operating properly at all times.
- (6) The wrecker service operator must remove all debris, other than hazardous materials, from the highway and the right-of-way prior to leaving the incident or collision scene. "Hazardous Materials" consist of those materials and amounts that are required by law to be handled by local Hazardous Materials Teams. This service must be completed as part of the required rotation service and shall not be charged as an extra service provided. Hazardous materials or road clean-up other than debris may be billed in quarter-hour increments after the first hour on scene.
- (7) The wrecker service shall be available to the Patrol for rotation service on a 24-hour per day basis and accept collect calls (if applicable) from the Patrol. Calls for service shall not go unanswered for any reason, unless the wrecker company has notified the Patrol is unable respond as set forth in Subparagraph (a)(16) of this Rule.
- (8) The wrecker service shall respond, under normal conditions, in a timely manner. Failure to respond in a timely manner shall result in a second rotation wrecker being requested. If the second wrecker is requested before the arrival of the first rotation wrecker, the initial requested wrecker shall forfeit the call and shall leave the collision or incident scene.
- (9) For Patrol-involved incidents, the wrecker service shall respond only upon request from Patrol authority or at the request of the person in apparent control of the vehicle to be towed.
- (10) The wrecker service, when responding to rotation wrecker calls, shall charge reasonable fees for services rendered. Towing, storage, and related fees charged for rotation services may not exceed the wrecker service's charges for nonrotation service calls that provide the same service, labor, and conditions. Wrecker services may secure assistance from another rotation wrecker service when necessary, but only one bill shall be presented to the owner or operator of the vehicle for the work performed. A price list for recovery, towing, and storage shall be established and kept on file at the place of business. A price list for all small wreckers and rollbacks with a GVWR of less than 26,001 pounds shall be furnished in writing on a Patrol form to the District First Sergeant upon request. The District First Sergeant shall approve all price lists submitted within his or her respective District, if they are determined to be reasonable, consistent with fees charged by other Highway Patrol rotation wrecker services within the District and do not exceed the wrecker service's charges for nonrotation service calls that provide the same service, labor, and conditions. The District First Sergeant shall retain a copy of all approved price lists in the appropriate wrecker service file located in the district office. Storage fees shall not begin to accrue until the next calendar day following the initial towing of the vehicle. Wrecker service towing fees for recovery and transport of vehicles after 5:00 p.m. and on weekends shall not exceed the towing fees by more than 10 percent for recovery and transport of vehicles charged during regular business hours. A mileage fee shall be charged only if the customer requests the vehicle to be towed to a location outside of the assigned wrecker zone or county. If a mileage fee is warranted, the wrecker driver shall inform the owner, operator, or legal possessor of the vehicle of any additional charge for mileage prior to towing. The individual price list for each respective wrecker service shall be made available to customers upon request. Copies of the approved price list shall be maintained within each wrecker and shall be given to the owner, operator, or legal possessor of a vehicle being towed as a result of a Highway Patrol rotation wrecker call by the wrecker driver, if the owner, operator, or legal possessor of the vehicle being towed is present at the scene. Prices indicated on this form

shall be the maximum amount that will be charged for a particular service; however, this does not prevent charges of a lesser amount for said service.

- (11) All wrecker operators shall have a valid driver's license for the type of vehicles driven. A limited driving privilege is not allowed.
- (12) Wrecker owners, operators, and employees shall not be abusive, disrespectful, or use profane language when dealing with the public or any member of the Patrol and shall cooperate at all times with members of the Patrol.
- (13) The wrecker service shall adhere to all Federal and State laws and local ordinances and regulations related to registration and operation of wrecker service vehicles and have insurance as required by G.S. 20-309(a).
- (14) The wrecker service shall employ only wrecker operators who demonstrate an ability to perform required services in a safe, timely, efficient, and courteous manner and who satisfy all of the requirements for wrecker drivers established or referenced by this Rule. The wrecker service shall not take any passengers to the service call who have been convicted, pled guilty to, or received a prayer for judgment continued (PJC) for any of the offenses listed in Subparagraph (a)(21) of this Rule, with the exception of a Chapter 20 violation.
- (15) The wrecker service shall notify the District First Sergeant of any insurance lapse or change. Wrecker services shall list the NC Highway Patrol as "Certificate Holder" on the Certificate of Liability Insurance, in c/o the District First Sergeant, complete with the current mailing address for the Highway Patrol District Office tasked with the responsibility of ensuring compliance with Highway Patrol policy regarding the respective wrecker service.
- (16) The wrecker service shall notify the Patrol whenever the wrecker service is unable to respond to calls.
- (17) Notification of rotation wrecker calls shall be made to the owner or operator or employee of the wrecker service. Notification shall not be made to any answering service, pager, or answering machine.
- (18) Wrecker service vehicles shall be marked on each side by printing the wrecker service name, city, and state in at least three inch letters. No magnetic or stick-on signs shall be used. Decals are permissible. The wrecker service operator shall provide a business card to the investigating officer or person in apparent control of the vehicle before leaving the scene.
- (19) Each wrecker service vehicle shall be registered with the Division of Motor Vehicles in the name of the wrecker service and insured by the wrecker service. Dealer tags shall not be displayed on wreckers that respond to rotation calls.
- (20) Wrecker services shall secure all personal property at the scene of a collision to the extent possible, and preserve personal property in a vehicle that is about to be towed.
- (21) The owner shall ensure that he or she and each wrecker driver has not been convicted of, pled guilty to, or received a prayer for judgment continued (PJC):
  - (A) Within the last five years of:
    - (i) A first offense under G.S. 20-138.1, G.S. 20-138.2, G.S. 20-138.2A, or G.S. 20-138.2B;
    - (ii) Any misdemeanor involving an assault, an affray, disorderly conduct, being drunk and disruptive, larceny, or fraud;
    - (iii) Misdemeanor Speeding to Elude Arrest; or
    - (iv) A violation of G.S. 14-223.
  - (B) Within the last ten years of:
    - (i) Two or more offenses in violation of G.S. 20-138.1, G.S. 20-138.2, G.S. 20-138.2A or G.S. 20-138.2B;
    - (ii) Felony speeding to elude arrest; or
    - (iii) Any Class F, G, H, or I felony involving sexual assault, assault, affray, disorderly conduct, being drunk and disruptive, fraud, larceny, misappropriation of property, or embezzlement.
  - (C) At any time of:
    - (i) Class A, B1, B2, C, D, or E felonies;
    - (ii) Any violation of G.S. 14-34.2, G.S. 14-34.5, or G.S. 14-34.7;
    - (iii) Any violation of G.S. 20-138.5; or

- (iv) Three felony offenses in any federal or state court or combination thereof. The commission of a felony is not considered to be a second or subsequent felony unless it is committed after the conviction of or guilty plea to the previous felony.

For convictions occurring in federal court, another state or country, or for North Carolina convictions for felonies that were not assigned a class at the time of conviction, the North Carolina offense that is substantially similar to the federal or out of state conviction or the class of felony that is substantially similar to the North Carolina felony shall be used to determine whether the owner or driver is eligible. Any question from the owner of a wrecker service concerning a criminal record shall be discussed with the First Sergeant or his or her designee.

- (22) Upon employment or upon the request of the District First Sergeant, the owner of the wrecker service shall supply to the Patrol the full name, current address, date of birth, and photocopy of drivers license, valid work VISA, or other INS documentation for all wrecker drivers and owner(s) in order for the Patrol to obtain criminal history information. The owner of the wrecker service shall also provide a certified copy of the driving record for the owner and each driver authorized to drive on rotation upon initial application, upon the hiring of a driver hired after initial application, and at the time of periodic wrecker inspections conducted by the Patrol to ensure compliance with this Rule and applicable statutes. The wrecker service shall inform the District First Sergeant if the owner or a driver is charged with, convicted of, enters a plea of guilty or no contest to, or receives a prayer for judgment continued (PJC) for any of the crimes listed in Subparagraph (21) of this Paragraph. Upon notification that a driver or owner was charged with any of the crimes listed in Subparagraph (21) of this Paragraph, the Patrol shall conduct an independent administrative investigation. Willful failure to notify the District First Sergeant as required by this Subparagraph shall result in removal from the rotation wrecker service for 12 months.
- (23) Upon request of the vehicle owner, the rotation wrecker shall return personal property stored in or with a vehicle, whether or not the towing, repair, or storage fee on the vehicle has been or will be paid. Personal property, includes any goods, wares, freight, or any other property having any value other than the functioning vehicle itself.
- (24) The wrecker service shall tow disabled vehicles to any destination requested by the vehicle owner or other person with apparent authority after financial obligations have been finalized.
- (25) Unless notified by the Patrol that the vehicle is being preserved as evidence, the wrecker service shall allow insurance adjusters access to and allow inspection of the vehicle at any time during the wrecker service's normal working hours.
- (26) Being called by the Patrol to tow a vehicle does not create a contract with or obligation on the part of the Patrol or Patrol personnel to pay any fee or towing charge except when towing a vehicle:
  - (A) owned by the Patrol;
  - (B) that is later forfeited to the Patrol; or
  - (C) that a court determines that the Patrol wrongfully authorized the tow and orders the Patrol to pay transportation and storage fees.
- (27) Being placed on the rotation wrecker list does not guarantee a particular number or quantity of calls, does not guarantee an equivalent number of calls to every wrecker service on the rotation wrecker list, nor does it entitle any wrecker service to any compensation as a consequence for not being called in accordance with the list or when removed from the rotation wrecker list.
- (28) The willful failure to respond to a call by the Patrol shall result in the wrecker service being placed at the bottom of any rotation wrecker list and the wrecker service shall then be "automatically by-passed" when that wrecker service comes up for its next rotation call.
- (29) The District First Sergeant or his or her designee shall subject rotation wreckers and facilities to inspections during normal business hours.
- (30) A rotation wrecker service, upon accepting a call for service from the Patrol, shall use its wrecker. Wrecker services shall not refer a call to another wrecker company or substitute for each other.
- (31) If a rotation wrecker service plans to move its business location, the owner shall send written notification of the new address to the District First Sergeant not less than 10 days prior to the move. The wrecker service shall not receive rotation calls prior to inspection of the new facility.

- (32) A wrecker service may dispatch either a wrecker or a rollback in response to a Patrol rotation wrecker call, except where the wrecker service is advised that a particular type of recovery vehicle is needed due to existing circumstances.
- (33) A rotation wrecker driver or employee shall not respond to a Patrol related incident with the odor of alcohol on his or her breath or while under the influence of alcohol, drugs, or any impairing substance.
- (34) A wrecker service shall have in effect a valid hook or cargo insurance policy issued by a company authorized to do business in the State of North Carolina in the amount of fifty thousand dollars (\$50,000) for each small wrecker and one hundred fifty thousand dollars (\$150,000) for each large wrecker or as otherwise required by Federal regulation, whichever is greater. In addition, each wrecker service shall have a garage keeper's insurance policy from an insurance company authorized to do business in the State of North Carolina covering towed vehicles in the amount of one hundred thousand dollars (\$100,000).

(b) The District First Sergeant shall conduct an investigation of each wrecker service that applied to be placed on the rotation wrecker list and determine if the wrecker service meets the requirements set forth in this Rule. If the District First Sergeant determines that a wrecker service fails to satisfy one or more of the requirements set forth in this Rule, the First Sergeant shall notify the wrecker service owner of the reason(s) for refusing to place it on the rotation wrecker list. Any wrecker service that fails to comply with the requirements of this Rule shall be removed from the rotation wrecker list.

(c) The Troop Commander or designee shall ensure that a wrecker service shall be included only once on each rotation wrecker list.

(d) Each Troop Commander shall designate a Troop Lieutenant to serve as a Rotation Wrecker Liaison for his or her respective Troop.

(e) If the Troop Commander or designee chooses to use a contract, zone, or other system administered by DOT or a local agency, the agency rules govern the system.

(f) If a wrecker service responds to a call, it shall be placed at the bottom of the rotation wrecker list by the Patrol Communications Center unless the wrecker service, through no fault of its own, is not used and receives no compensation for the call. In that event, it shall be placed back at the top of the rotation wrecker list.

*History Note: Authority G.S. 20-184; 20-187; 20-188;  
Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Amended Eff. April 1, 2010; July 18, 2008;  
Transferred from 14A NCAC 09H .0321 Eff. June 1, 2013;  
Amended Eff. March 19, 2015;  
Readopted Eff. January 1, 2019.*

#### **14B NCAC 07A .0117 RECORDING WRECKER REQUESTS/INCIDENTS**

(a) Members investigating collisions shall enter on the Collision Report Form the authorization for removal of vehicles from the scene.

(b) Members shall submit written verification of wrecker requests on Patrol Form HP-305.

(c) Members observing any violations of the rotation wrecker rules shall notify the District First Sergeant.

(d) Complaints concerning any wrecker service on the rotation wrecker list, whether instituted by the public or by a member, shall be investigated by the District First Sergeant or designee.

*History Note: Authority G.S. 20-184; 20-185; 20-187; 20-188;  
Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Amended Eff. July 18, 2008;  
Transferred from 14A NCAC 09H .0322 Eff. June 1, 2013;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.*

#### **14B NCAC 07A .0118 SANCTIONS FOR VIOLATIONS**

(a) If a District First Sergeant determines that a violation of the rules in this Section has occurred, the First Sergeant may:

- (1) Issue a written warning and request for compliance to the wrecker service;
  - (2) Remove the wrecker service from the rotation wrecker list until corrective measures have been taken to bring the wrecker service into compliance with the rules in this Section and verification of such compliance has been demonstrated; or
  - (3) Remove the wrecker service from the rotation wrecker list for a period of time.
- (b) The severity of the sanction imposed shall be commensurate with the nature of the violation and prior record of the wrecker service.
- (c) If a wrecker service owner commits, is convicted of, pleads guilty to, or receives a prayer for judgment continued (PJC) for any of the offenses specified in 14B NCAC 07A .0116(a)(21), the wrecker service shall be removed from the rotation wrecker list and shall not be eligible to reapply for inclusion on the list for the designated period of time as set out in that Rule. If a wrecker service owner is charged with any of the offenses specified in 14B NCAC 07A .0116(a)(21), the wrecker service may be removed from the rotation wrecker list for the designated period of time prior to conviction only if an administrative investigation by the Patrol corroborates the commission of the offense. In such cases, the period of ineligibility shall commence on the date of removal.
- (d) A wrecker service shall not employ or continue to employ as a driver any person who commits, is convicted of, pleads guilty to or receives a prayer for judgment continued for any of the offenses specified in 14B NCAC 07A .0116(a)(21). This prohibition is for the designated period of time as set out in that Rule. A wrecker service that willfully violates this provision shall be removed from the rotation wrecker list for a minimum of 12 months.
- (e) A wrecker service driver or owner who responds to a Patrol related incident with an odor of alcohol on his or her breath shall immediately be removed from the rotation wrecker list for not less than 12 months. If the owner was not the driver and had no knowledge that the driver had been drinking, the wrecker service shall not be removed if the driver is prohibited from responding to Patrol calls for not less than 12 months. This period of removal is in addition to any removal that may result as a consequence of a conviction, plea of guilty, or prayer for judgment continued (PJC) pursuant to 14B NCAC 07A .0116(a)(21).
- (f) A wrecker service driver or owner who responds to a Patrol related incident with an odor of alcohol on his or her breath, and who refuses to submit to any requested chemical analysis, shall immediately be removed from the rotation wrecker list for a period of five years. If the owner was not the driver and had no knowledge that the driver had been drinking, the wrecker service shall not be removed if the driver is prohibited from responding to Patrol calls for 12 months. This period of removal is in addition to any removal that may result as a consequence of a conviction, plea of guilty, or prayer for judgment continued (PJC) pursuant to 14B NCAC 07A .0116(a)(21).
- (g) A willful misrepresentation of any material fact may result in removal from the rotation wrecker list.
- (h) For any violation of these Rules for which no specific period of removal or disqualification is established, a wrecker service shall be removed, at a minimum, until the violation is corrected.
- (i) A wrecker service that is removed from the rotation wrecker list remains ineligible for reinstatement even if ownership has been transferred to a family member.
- (j) A wrecker service that is removed from the rotation list must demonstrate compliance with all rules in this Section in order to be reinstated.

*History Note: Authority G.S. 20-184; 20-187; 20-188;  
 Temporary Adoption Eff. June 9, 2000;  
 Eff. April 1, 2001;  
 Amended Eff. July 18, 2008;  
 Transferred from 14A NCAC 09H .0323 Eff. June 1, 2013;  
 Readopted Eff. January 1, 2019.*

#### **14B NCAC 07A .0119 HEARING PROCEDURES**

- (a) If the District First Sergeant refuses to include a wrecker service on the rotation wrecker list, the wrecker service may make a written appeal to the Troop Commander or designee within 20 calendar days of receipt of the decision. The Troop Commander or designee shall conduct a hearing or review the record and shall render a decision, in writing, within 10 calendar days of receipt of the appeal. The Troop Commander or designee's decision, if unfavorable, may be appealed to the Office of Administrative Hearings (OAH) within 60 calendar days of receipt of the decision, pursuant to the provisions of Article 3 of G.S. 150B.
- (b) If a District First Sergeant issues a written warning to a wrecker service for a violation of any of the rules in this Section, the wrecker service may, within 20 days of receipt of the warning, submit a written response to the First Sergeant in mitigation, explanation, or rebuttal. After considering the mitigation, explanation, or rebuttal, the First Sergeant may reconsider, and remove the written warning.

- (c) If a District First Sergeant determines that a violation of the rules in this Section has occurred, and determines that removal from the rotation wrecker list may be warranted, the District First Sergeant shall send written notice to the wrecker service of this determination and afford the wrecker service an opportunity to be heard. The hearing shall take place within 10 calendar days of actual notice or, if notice is by first class mail, within 13 days of the date the notice is placed in the mail. The hearing shall take place within 10 calendar days of the request for hearing and not less than three days written notice. If a District First Sergeant removes a wrecker service from the rotation wrecker list, the wrecker service may appeal the removal to the Troop Commander or designee in writing, within 20 calendar days of receipt of the notice. The Troop Commander or designee, may conduct a hearing or review the record. If the Troop Commander or designee decides to conduct a hearing, he or she shall give the wrecker service not less than 10 calendar days notice. The Troop Commander or designee shall issue a written decision within 10 calendar days of receipt of the appeal or date of the hearing, whichever occurs last. The Troop Commander or designee's decision, if unfavorable, may be appealed to OAH within 60 calendar days, pursuant to the provisions of G.S. 150B.
- (d) Hearings conducted by District First Sergeants or Troop Commanders or their designees shall be informal and no party shall be represented by legal counsel.
- (e) A wrecker service that is removed from the rotation wrecker list and later placed back on the list, for any reason, shall not be entitled to additional calls, priority listing, or any other form of compensation.
- (f) A wrecker service may remain on the rotation wrecker list pending a final decision of the Troop Commander or designee. A District First Sergeant, with the concurrence of the Troop Commander or designee, may, however, summarily remove a wrecker service from the rotation wrecker list in those cases where there exists reasonable grounds to believe a violation enumerated in 14B NCAC 07A .0116(a)(12), (a)(20), or (a)(31) or any other violation relating to licensing, registration, insurance requirements, or the safe and proper operation of the business or that may jeopardize the public health, safety, or welfare.

*History Note: Authority G.S. 20-184; 20-187; 20-188; 150B-22;  
Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Amended Eff. July 18, 2008;  
Transferred from 14A NCAC 09H .0324 Eff. June 1, 2013;  
Readopted Eff. January 1, 2019.*

#### **14B NCAC 07A .0120 EMERGENCY MEDICAL RELAYS**

Emergency medical relays may be made by patrol members whenever an actual emergency situation exists. The procedures listed in this Regulation shall be followed:

- (1) Emergency relays will be authorized only when there is imminent danger of death or additional injury to the person being treated.
- (2) An emergency relay may be authorized only when there is no alternate means of transportation available which could as effectively perform the service.
- (3) Hospital personnel must contact the local troop commander, his designee or the patrol headquarters officer of the day through the Raleigh communications center to obtain authorization for a medical relay.

*History Note: Authority G.S. 20-184; 20-185; 20-187; 20-188;  
Eff. November 21, 1977;  
Transferred from 14A NCAC 09H .0505 Eff. June 1, 2013;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.*

### **SUBCHAPTER 07B - EFFECT AND USE OF MANUAL: LIABILITY**

#### **SECTION .0100 - EFFECT AND USE OF MANUAL: LIABILITY**

- 14B NCAC 07B .0101 CIVIL AND CRIMINAL LIABILITY**  
**14B NCAC 07B .0102 VIOLATIONS OF MANUAL**

*History Note:* Authority G.S. 20-184; 20-185; 20-187; 20-188;  
Eff. November 21, 1977;  
Transferred from 14A NCAC 09I .0101 Eff. June 1, 2013 (14B NCAC 07B .0101);  
Transferred from 14A NCAC 09I .0102 Eff. June 1, 2013 (14B NCAC 07B .0102);  
Expired Eff. February 1, 2017 pursuant to G.S. 150B-21.3A.

#### **14B NCAC 07B .0103 NO CONTRACT RIGHTS**

*History Note:* Authority G.S. 20-184; 20-185; 20-187; 20-188;  
Eff. October 1, 1987;  
Transferred from 14A NCAC 09I .0103 Eff. June 1, 2013;  
Expired Eff. February 1, 2017 pursuant to G.S. 150B-21.3A.

### **SUBCHAPTER 07C – MOTOR CARRIER SAFETY REGULATIONS**

#### **SECTION .0100 – SAFETY RULES AND REGULATIONS**

##### **14B NCAC 07C .0101 SAFETY OF OPERATION AND EQUIPMENT**

(a) The regulations adopted by the U.S. Department of Transportation relating to safety of operation and equipment (49 CFR Parts 390 through 397) apply to all for-hire motor carriers and all for-hire motor carrier vehicles, and all private motor carriers and all private motor carrier vehicles engaged in interstate commerce over the highways of the State if such vehicles are commercial motor vehicle(s) as defined in 49 CFR Part 390.5.

(b) The regulations adopted by the U.S. Department of Transportation relating to safety of operation and equipment (49 CFR Parts 390 through 397) apply to all for-hire motor carriers and all for-hire motor carrier vehicles, and all private motor carriers and all private motor carrier vehicles engaged in intrastate commerce over the highways of the State if such vehicle(s):

- (1) have a gross vehicle weight rating (GVWR), gross combination weight rating (GCWR), gross vehicle weight (GVW), gross combination weight (GCW) of 26,001 pounds or more, whichever is greater;
- (2) is designed or used to transport 16 or more passengers, including the driver; or
- (3) is used in transporting a hazardous material in a quantity requiring placarding pursuant to 49 C.F.R. Parts 170 through 185.

(c) The following exceptions also apply to all intrastate motor carriers:

- (1) An intrastate motor carrier driver shall not drive more than 12 hours following eight consecutive hours off duty; for any period after having been on duty 16 hours following eight consecutive hours off duty; after having been on duty 70 hours in seven consecutive days; or more than 80 hours in eight consecutive days. An intrastate driver shall be determined by his or her previous seven days of operation.
- (2) Persons who qualify medically to operate a commercial motor vehicle within the State are exempt from the provisions of Part 391.11(b)(1) and may be exempt from provisions of Part 391.41(b)(1) through (11) where applicable and therefore are authorized for intrastate operation if approved by an Exemption Review Officer appointed by the Commissioner of Motor Vehicles. These drivers shall continue to be exempt upon completion of a medical examination indicating the condition has not worsened or no new disqualifying conditions have been diagnosed and upon continued approval of an Exemption Review Officer. After a medical review by the Exemption Review Officer, a driver may be granted a waiver not to exceed a period of two years based on the type and severity of the condition. The Exemption Review Officer shall follow the guidelines established for variances from the Federal Motor Carrier Safety Regulations for intrastate commerce found in 49 CFR 350.341.

(d) The regulations adopted by the U. S. Department of Transportation relating to inspection, repair, and maintenance of motor vehicles (49 CFR Part 396.17 through 396.23 and including Appendix G) apply to all for-hire motor carrier vehicles, and all private motor carrier vehicles engaged in intrastate commerce over the highways of the State if such vehicles have a GVWR of greater than 10,000 pounds.

(e) Every motor vehicle registered or required to be registered in North Carolina and subject to the inspection requirements of the Federal Motor Carrier Safety Regulations (49 CFR Part 396), shall display a current federal

inspection certificate when operated on the streets and highways of this State. On self-propelled vehicles, the federal inspection certificate shall be displayed on the driver's side of the vehicle, exclusive of the window or rear view mirror. On trailers and semitrailers, the federal inspection certificate shall be located on the left side as near as possible to the outside lower front of the vehicle. The inspection certificate shall contain at least the following information, legible for review by the public:

- (1) The date of inspection;
  - (2) The name and address of the motor carrier or other entity where the inspection report required by 49 CFR 396.21(a) is maintained;
  - (3) Information uniquely identifying the vehicle inspected, such as the VIN; and
  - (4) A certification that the vehicle has passed an inspection in accordance with 49 CFR 396.17.
- (f) The Secretary shall fine violators for out-of-service criteria as allowed by G.S. 20-17.7. The out-of-service maximum civil fine schedule does not apply to violations discovered during educational contacts. An "educational contact" for the purpose of this Subchapter means a pre-planned, public safety inspection activity, focusing on commercial motor vehicle safety awareness and compliance.
- (g) Any fines assessed for a violation listed in the Commercial Vehicle Safety Alliance (CVSA) North American Standard out-of-service criteria shall be assessed against the motor carrier of the commercial motor vehicle. These standards are incorporated by reference and may be purchased at a range of prices beginning at forty-five dollars (\$45.00) from the CVSA at <https://cvsa.org/inspections/inspections/out-of-service-criteria/>.
- (h) Whenever a motor carrier of a vehicle has a defense to the enforcement of a fine or fines for violation(s) of the out-of-service criteria by the Department of Public Safety, it shall pay the penalty within 30 calendar days after the date the penalty was assessed or make a written request within this time limit to the Department for a Departmental review of the penalty. A person who does not submit a request for review within the required time waives the right to a review and hearing on the penalty.
- (i) All Code of Federal Regulations (CFR) Parts cited in this Rule are incorporated herein by reference including any subsequent amendments. A copy of the CFR is available online without cost at <http://www.fmcsa.dot.gov/> or from the Office of Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 at a cost set by that office.

*History Note: Authority G.S. 20-17.7; 20-381;  
Eff. December 1, 1983;  
Amended Eff. November 1, 1991; October 1, 1991;  
Temporary Amendment Eff. February 1, 1992 for a Period of 180 Days to Expire on July 30, 1992;  
Temporary Amendment Eff. March 30, 1992 for a Period of 180 Days to Expire on September 26, 1992;  
Amended Eff. August 3, 1992; July 1, 1992;  
Temporary Amendment Eff. December 1, 1999;  
Amended Eff. August 1, 2002; April 1, 2001;  
Temporary Amendment Eff. August 6, 2002;  
Amended Eff. August 1, 2004;  
Transferred and recodified from 19A NCAC 03D .0801 Eff. March 23, 2009;  
Amended Eff. June 1, 2011;  
Transferred from 14A NCAC 09J .0101 Eff. June 1, 2013;  
Readopted Eff. November 1, 2018.*

#### **14B NCAC 07C .0102 HAZARDOUS MATERIALS**

- (a) The regulations adopted by the U.S. Department of Transportation relating to hazardous materials, including the transportation of hazardous materials (49 CFR Parts 170-185) shall apply to all for-hire and all private motor carrier vehicles engaged in interstate commerce or intrastate commerce over the highways of the State of North Carolina.
- (b) All Code of Federal Regulations (CFR) Parts cited in this Rule are incorporated herein by reference including any subsequent amendments. A copy of the CFR is available online without cost at <http://www.fmcsa.dot.gov/> or from the Office of Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 at a cost set by that office.

*History Note: Authority G.S. 20-2; 20-381;  
Eff. December 1, 1983;*

*Amended Eff. April 1, 2001; January 1, 1994;  
Transferred and recodified from 19A NCAC 03D .0802 Eff. March 23, 2009;  
Transferred from 14A NCAC 09J .0102 Eff. June 1, 2013;  
Readopted Eff. November 1, 2018.*