

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, 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 bypassed" 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.

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