

#### **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;  
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Transferred from 14A NCAC 09H .0324 Eff. June 1, 2013;  
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