

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Public Safety, State Highway Patrol

RULE CITATION: 14B NCAC 07A .0116

**DEADLINE FOR RECEIPT: Thursday, June 12, 2014**

***NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*Is there a reason the rulemaking coordinator didn't sign the Submission for Permanent Rule form?*

*Insert page numbers centered at the bottom of each page in the physical filing, beginning with page 1.*

*This Rule is poorly organized and difficult to read. There is so much information that is jumbled together. You need to reorganize this Rule to address availability, insurance requirements, any and all staff requirements, etc. and put similar requirements near each other.*

*Further, note that Paragraph (a) states that the applicant must provide written agreement that it will adhere to the provisions below. So, when reading (a)(1) through (34), be mindful that this is something the applicant is agreeing to do. But some things are beyond the scope of the applicant (see (a)(10), Page 3, lines 2 and 3). Those things need to be removed from (a) and placed elsewhere in the Rule.*

*Throughout this Rule, I see terms used apparently interchangeably to mean the same thing. For example, on Page 1, I see: "Patrol Rotation Wrecker List" (line 4), "Highway Patrol Rotation Wrecker List" (line 6), "rotation wrecker list" (line 9), "rotation list" (line 25), "Patrol wrecker rotation list" (line 34). Assuming this is all the same document, it should have the same name each time. Choose the name you are using and use it everywhere. I note that Rule 14B 07A .0103, "Definitions" refers to a "Rotation Wrecker List." Perhaps you should use that term.*

*On line 4, change "which" to "that"*

*In (a)(1), line 7, what is in the form designated by the Patrol? Where can I find it? What does it require? Note that G.S. 150B-2(8a)(d) states that a form does not need to in rule, but the contents must be. Where are the rules governing the contents?*

*Also in (a)(1), line 8, does the regulated public know who the "appropriate" District First Sergeant is?*

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: May 29, 2014

*In (a)(2), line 9, you speak to a “zone.” Is that the same as the “Rotation Wrecker Zone” on line 10? And does that term have the same meaning as the term “Rotation Wrecker Zone” as defined in Rule 07A .0103? Please be consistent in using terms that mean the same thing.*

*On lines 9 and 12, replace “must” with “shall”*

*On lines 10 and 11, delete “during normal business hours of”*

*In (a)(2), line 11, which holidays are you referring to? State and federal, religious? Note the same question for line 18.*

*Subparagraph (a)(2) is very long with a lot of information. I recommend breaking it down into more than one subparagraph.*

*In (a)(2), line 12, why is “Wrecker” capitalized? Make it lowercase.*

*Also on line 12, delete the “and” after “Patrol,”*

*On line 15, what do you mean by “advertised”?*

*On line 16, delete the comma after “basis”*

*On line 17, replace “to” with “and” so it reads, “hours of 8 a.m. and 5 p.m.”*

*On line 19, change “he/she” and “his/her” to “he or she” “his or her”*

*On lines 20 and 21, delete the parenthesis and just use a comma after “service”*

*In (a)(3), line 23, replace “may” with “shall” assuming that is what you mean. If you don’t, then when may this be shared?*

*On line 24, replace “must” with “shall” (both places).*

*I note that the terms “large wrecker” and “small wrecker” are defined in Rule 07A .0103. I take it your regulated public is aware of this?*

*On line 26, insert a comma after “wreckers”*

*On line 31, replace “may” with “shall” assuming that is what you mean. If not, then when may it be on more than one?*

*What are you saying in the sentence from lines 32 through 35? And someone is agreeing in writing to do this? That does not make sense as written.*

*Is the sentence on lines 35 and 36 necessary?*

*On Page 2, (a)(4), line 1, replace “must” with “shall” And how is “good working order” determined? By whom?*

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: May 29, 2014

*In (a)(5), line 3, replace “must” with “shall.” And what is the application list on line 4? What is “operating properly” on line 4? Per manufacturer specifications? Rewrite the sentence on line 4, “and the equipment shall be operating at all times.”*

*In (a)(6), line 5, replace “other than” with “excluding” On line 7, remove “a” before “part.” Does your regulated public know what laws or rules you are referring to on line 8? On line 9, make “materials” lowercase in the second sentence, so it’s “Hazardous materials or road clean-up...” On line 10, “quarter-hour” should be hyphenated.*

*In (a)(6), why are lines 9 and 10 in this Rule? You are saying that if the local Hazardous Materials Team will clean this up and they may bill – is it the Highway Patrol? – on a quarter-hour basis. But this Rule governs rotation wrecker services, not those teams.*

*In (a)(7), lines 11 and 12, replace “must” with “shall.”*

*In (a)(8), delete or define “normal” “timely” and “immediately”*

*Also in (a)(8), line 15, I believe you want to replace “may” with “shall” If you mean “may” when will the removal occur? On line 16, replace “the initial requested” with “the first”*

*In (a)(9), what is a “Patrol-involved incident”? How does the operator know who is in “apparent control”?*

*(a)(10) is very long, convoluted and contains a lot of information that can be easily overlooked. For example, the storage fee beginning to accumulate on the next calendar day is buried. This Subparagraph would benefit from being broken down into more subparagraphs. Further, some of this is not something the applicant agrees to – they will not agree on Page 3, lines 2 through 3 that the Highway Patrol will appoint a liaison. This requirement should not be in this list.*

*In (a)(10), the first several lines are repeating G.S. 20-188. That is generally allowed if the intent is to ensure your regulated public understands the law. Is that the intent?*

*In (a)(10), line 26, I know “rollback” is defined in Rule 07A .0103. However, as “GVWR” is not defined, I think you should spell it out here and put “GVWR” in parenthesis.*

*On line 27, where is the patrol form found? What is on it? And when will it be requested? Also on line 27, delete the commas after “furnished” and “form”*

*On line 28, replace “their” with “his or her”*

*On line 29, what do you mean by “reasonable”? I am assuming that the prices must be consistent with fees and no exceed the charge for nonrotation services. Are you using the word to mirror the statute?*

*On lines 33 and 34, what is the authority to state that the fees cannot accrue until the next calendar day? What if the wrecker usually does this for nonrotation calls?*

*On line 35, bring the “by more than 10 percent” language behind “not exceed the towing fees” and delete the language from line 36.*

*On line 36, why is "Business Hours" in quotation marks? Just state "business hours..."*

*On line 36, move "only" to behind "charged"*

*On Page 3, lines 2 and 3, I take it the regulated public knows who the terms "Troop Commander" and "Troop Lieutenant"?*

*Again, please note that I do not believe lines 2 and 3 belong in this list.*

*On line 3, change "their" to "his or her"*

*In (a)(10), Page 3, line 4, I take it the wrecker service will make the list available upon request? Or are you intending the liaison for the Troop to provide it? As written, this is not clear. State to whom the request should be made in Rule.*

*On line 6, how does the operator know who the legal possessor is? Do you just mean the driver?*

*On line 7, delete the comma after "driver"*

*In (a)(11), end the sentence after "driven" and begin a new sentence, "A limited..."*

*In (a)(12), the owners, operators and employees are not required to cooperate at all times with the members of the public? And what is "disrespectful"?*

*In (a)(14), what is your authority to determine who will be employed by these operators? G.S. 20-188 confers the following authority to the Department:*

The State Highway Patrol recognizes the need to utilize private wrecker services to remove vehicles from public roadways as part of its public safety responsibility. In order to assure that this public safety responsibility is accomplished, the Troop Commander shall include on the Highway Patrol's rotation wrecker list only those wrecker services which agree in writing to impose reasonable charges for work performed and present one bill to the owner or operator of any towed vehicle. Towing, storage, and related fees charged may not be greater than fees charged for the same service for nonrotation calls that provide the same service, labor, and conditions.

*Where is the authority to say who can be employed and the standard of conduct at all times?*

*Further in (a)(14), define "timely" and "efficient" and "unauthorized." And authorized by whom? The driver? The service? The Patrol?*

*I believe (a)(15) should be moved under (a)(13), since both deal with insurance, and (a)(15) comes directly from the requirement of (a)(13).*

*Also in (a)(15), I am not an expert on insurance, by any means. I note that G.S. 20-309(a) states:*

(a) No motor vehicle shall be registered in this State unless the owner at the time of registration provides proof of financial responsibility for the operation of such motor vehicle, as provided in this Article. The owner of each motor vehicle registered in this State shall maintain financial responsibility continuously throughout the period of registration.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: May 29, 2014

*As I understand it, by being certificate holder, this simply means that the Patrol gets proof of insurance. Is this correct?*

*On line 24, "services" should not be capitalized.*

*On line 26, replace "for" with "of"*

*Doesn't (a)(16) conflict with (a)(7), which says that calls for service cannot go unanswered for any reason?*

*What are you saying in (a)(17)? Notification by whom? Are you saying there must be a person who receives the notice on a 24 hour basis? If so, then why isn't (a)(2), lines 15 through 16, sufficient to ensure this?*

*In (a)(18), line 32, delete "at least" And are they three inches tall or wide? And what is the difference between a decal, which can be removed, and a stick-on sign?*

*In (a)(19), line 35, replace "must" with "shall"*

*On Page 4, (a)(20), line 1, why is "Wrecker Services" capitalized? And what is "personal property"? I see the term defined in (a)(23), but that is only for that Subparagraph. Why not put (a)(20) and (23) beside each other? On line 2, replace "which" with "that"*

*In (a)(21), I am slightly more comfortable saying that people operating the trucks cannot have traffic offenses, given that the Patrol is required to uphold traffic laws in G.S. 20-188(a):*

The State Highway Patrol shall be subject to such orders, rules and regulations as may be adopted by the Secretary of Public Safety, with the approval of the Governor, and shall regularly patrol the highways of the State and enforce all laws and regulations respecting travel and the use of vehicles upon the highways of the State and all laws for the protection of the highways of the State.

*However, what is the authority to set requirements not allowing other convictions, such as disorderly conduct or fraud? Are you relying upon the public safety language in G.S. 20-188?*

*In (a)(21), line 3, do you really mean "upon application" or "at all times?" Bear in mind, this is something (per the language on Page 1 for (a)) that the service agrees in writing to follow. I think you can just begin with "The owner..." Also, replace the second "owner" on line 3 with "he or she" But the owner is going to ensure that he or she has not been convicted, etc.?*

*Throughout (a)(21), the language is very inconsistent. In (a)(21), why are some of the offenses given by citation to the statute, (see (A)(i)), others by apparently a proper name (see (A)(iii)) or only a partial name of the statute (see (A)(iv))? I also note that G.S. 14-223 is "Resisting Officers." Note that the statutes cited in (C)(ii) and (iii) are also not given the proper name of the statute. Be consistent throughout this.*

*In (C)(iii), line 25, the language beginning "For convictions..." does not belong here unless you are confining it to only G.S. 20-138.5. Assuming you are not doing that, place the "For convictions" language at the end of the Subparagraph and bring the margin to the left to align with the language beginning the Subparagraph.*

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*On line 32, state “his or her designee”*

*In (C)(iv), are you saying that you don’t consider a consolidated conviction for two felonies to count as two felonies? Are you tracking G.S. 14-7.1, “Persons defined as habitual felons.”? If so, then do you want to track it completely for the second offense? The statute states:*

*The commission of a second felony shall not fall within the purview of this Article unless it is committed after the conviction of or plea of guilty to the first felony. The commission of a third felony shall not fall within the purview of this Article unless it is committed after the conviction of or plea of guilty to the second felony.*

*On line 35, insert an “of” after “conviction”*

*In (a)(22), line 37, delete “with” And “photocopy” is one word, not two.*

*In (a)(22), Page 5, line 1, “documentation” should be lowercase.*

*On line 2, are you saying the Patrol will run a criminal history check on these individuals?*

*In (a)(22), do you want the owner or the wrecker service to take action? For instance, in the first sentence, the owner will do it. In the second sentence, the service will do it. Be consistent.*

*Also, on line 2, “wrecker service” should be lowercase, like it is on line 5.*

*On line 4, state “upon the hiring of a driver hired after the initial application,”*

*On line 5, what are “periodic wrecker inspections”? When does that happen? Upon first reading, I thought this is what is contemplated in Paragraph (b) of the Rule, but that Paragraph is of the service, not the wrecker. Where can one find guidance on the periodic wrecker inspections?*

*On lines 7 and 8, you refer to the same thing two different ways. (“Subparagraph (21) of this Paragraph” and “crimes listed in this Rule.”) Be consistent. Why not “Subparagraph (21) of this Paragraph” both places?*

*On line 9, when will the Patrol not conduct an independent investigation? By saying “may” you are creating a waiver. Per G.S. 150B-19(6), you must state specific guidelines in the Rule for when the waiver will be applied.*

*On line 9, define “Willful failure”*

*Delete “minimum” on line 11.*

*In (a)(23), demand by whom? Why is it “request or demand” and not just “request”? I think you mean this is the definition for this Rule. If that’s correct, replace “this provision” with “this Rule.” And I read the definition of personal property to be everything but the vehicle itself. Is this correct?*

*In (a)(24), what are you trying to say? And shouldn’t this be behind (a)(10)?*

*In (a)(25), who will the wrecker service know it’s being preserved? Will the Patrol tell them? And whose normal working hours? The service or the adjusters?*

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*In (a)(26), delete the commas after “Patrol” and “vehicle” on line 21, and add a “the” at the end of it so it reads, “on the part of the Patrol...” I’d break this Subparagraph down further into a list:*

*Being called... except when towing a vehicle:*

- (A) owned by the Patrol;*
- (B) that is later forfeited to the Patrol; or*
- (C) that a court determines...”*

*In (a)(27), I’d add “does it” after “nor” on line 27.*

*In (a)(28), how does this interplay with (a)(7) and (16)? I thought they cannot fail to respond per (a)(7).*

*In (a)(29), what is this? Again, if you’re relying upon (b), you need to say that. And doesn’t this need to be near (a)(22)?*

*Shouldn’t (a)(30) be closer to (a)(10) and (24)? Also, what is “wrecker company”? You say “wrecker service” elsewhere.*

*In (a)(31), the language is unclear as written. Insert “plans to move” before “its business location” on line 36, Page 5.*

*Also on line 36, what do you mean by “has a change of address”? If the US Post Office changes the address?*

*I’d rewrite the first two sentences in (a)(31) to state, “If a wrecker service plans to move its business location, the owner shall send written notification of the new address to the District First Sergeant ten days prior to the move.”*

*In (a)(31), Page 6, lines 1 and 2, what do you really mean? Do you mean that the service shall not receive rotation calls prior to inspection?*

*In (a)(32), why are you now referring to the rollback as “car carrier “rollback””? You don’t do this in (a)(10). Be consistent. And this information should not be placed here, but closer to (a)(10).*

*Is Subparagraph (a)(33) really necessary? Assuming it is, on line 7, state “his or her”*

*In (a)(34), move this closer to the other insurance provisions. How will the regulated public know what is grater on line 11?*

*In (b), replace “desiring” with “that applied”*

*On line 19, do you mean “shall” rather than “may” be removed? If not, what are the circumstances where they may or may not be removed?*

*In (c), line 21, replace “will” with “shall” and move “only” to before “once”*

*In (d), when will this choice be made? How does one know the local agency rules? What system are you referring to?*

*In (e), who does the placement?*

*Also in (e), line 25, insert a comma after "call"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: May 29, 2014

1 14B NCAC 07A .0116 is amended as published in 28:16 1861-1865 as follows:

2  
3 **14B NCAC 07A .0116 ROTATION WRECKER SERVICE REGULATIONS**

4 (a) The Troop Commander shall include on the Patrol Rotation Wrecker List only those wrecker services which agree in  
5 writing to adhere to the following provisions:

6 (1) A wrecker service desiring to be included on the Highway Patrol Rotation Wrecker List shall complete  
7 a wrecker application on a form designated by the Patrol. All applications shall be submitted to the  
8 appropriate District First Sergeant.

9 (2) In order to be listed on a rotation wrecker list within a zone, a wrecker service must have a full-time  
10 business office within that Rotation Wrecker Zone that is staffed and open during normal business  
11 hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays, and a storage facility.  
12 The Wrecker service must have someone available to accept telephone calls from the Patrol, and to  
13 allow access to towed vehicles, or to retrieve towed vehicles by the registered owner, operator, or legal  
14 possessor during business hours. The business office may not be the same physical address as the  
15 owner's residence unless zoned for commercial purposes and advertised as a business property. A  
16 representative from the wrecker service shall be available on call on a 24-hour basis, for emergencies.  
17 The wrecker service shall allow vehicles to be retrieved between the hours of 8:00 a.m. to 5:00 p.m.,  
18 seven days a week, excluding holidays. An individual (registered owner, legal possessor, or operator)  
19 shall not be charged a storage fee for days that he/she could not retrieve his/her vehicle as a result of  
20 an action or omission on the part of the wrecker service (such as where the wrecker service was not  
21 open, did not answer the telephone or a representative was not available to release the vehicle).

22 (3) Wrecker service facilities and equipment, including vehicles, office, telephone lines, office equipment  
23 and storage facilities may not be shared with or otherwise located on the property of another wrecker  
24 service and must be independently insured. Vehicles towed at the request of the Patrol must be placed  
25 in the storage owned and operated by the wrecker service on the rotation list. A storage facility for a  
26 small wrecker shall be located within the assigned zone. For wrecker services with large wreckers the  
27 storage facility for vehicles towed with the large wrecker may be located anywhere within the county.  
28 To be listed on the large rotation wrecker list, a wrecker service must have at least one large ~~wrecker.~~  
29 wrecker located within the county and designated for the sole use in that county. To be listed on the  
30 small rotation wrecker list, a wrecker service must have at least one small ~~wrecker.~~ wrecker located  
31 within the assigned zone and designated for the sole use in that assigned zone. A wrecker may not be  
32 on more than one Patrol Rotation list. In any case where husband and wife or other family members  
33 are engaged in the business of towing vehicles and desire to list each business separately on the Patrol  
34 wrecker rotation list, the wrecker service shall establish that it is a separate legal entity for every  
35 purpose, including federal and state tax purposes. Nothing in this rule precludes a wrecker service  
36 from responding to private calls outside the assigned zone or county.

- 1 (4) Each wrecker must be equipped with legally required lighting and other safety equipment to protect the  
2 public and the equipment must be in good working order.
- 3 (5) Each wrecker on the Patrol Rotation Wrecker List must be equipped with the equipment required on  
4 the application list and the equipment must, at all times, be operating properly.
- 5 (6) The wrecker service operator must remove all debris, other than hazardous materials, from the  
6 highway and the right-of-way prior to leaving the incident/collision scene. This service must be  
7 completed as a part of the required rotation service and shall not be charged as an extra service  
8 provided. Hazardous materials consist of those materials and amounts that are required by law to be  
9 handled by local Hazardous Materials Teams. Hazardous Materials or road clean-up other than debris  
10 may be billed in quarter hour increments after the first hour on scene.
- 11 (7) The wrecker service must be available to the Patrol for rotation service on a 24-hour per day basis and  
12 accept collect calls (if applicable) from the Patrol. Calls for service must not go unanswered for any  
13 reason.
- 14 (8) The wrecker service shall respond, under normal conditions, in a timely manner. Failure to respond in  
15 a timely manner may result in a second rotation wrecker being requested. If the second wrecker is  
16 requested before the arrival of the first rotation wrecker, the initial requested wrecker shall forfeit the  
17 call and shall immediately leave the collision/incident scene.
- 18 (9) For Patrol-involved incidents, the wrecker service shall respond only upon request from Patrol  
19 authority or at the request of the person in apparent control of the vehicle to be towed.
- 20 (10) The wrecker service, when responding to rotation wrecker calls, shall charge reasonable fees for  
21 services rendered. Towing, storage and related fees charged for rotation services may not exceed the  
22 wrecker service's charges for nonrotation service calls that provide the same service, labor, and  
23 conditions. Wrecker services may secure assistance from another rotation wrecker service when  
24 necessary, but only one bill shall be presented to the owner or operator of the vehicle for the work  
25 performed. A price list for recovery, towing and storage shall be established and kept on file at the  
26 place of business. A price list for all small wreckers and rollbacks with a GVWR of less than 26,001  
27 pounds shall be furnished, in writing on a Patrol form, to the District First Sergeant upon request. The  
28 District First Sergeant shall approve all price lists submitted within their respective District if they are  
29 determined to be reasonable, consistent with fees charged by other Highway Patrol rotation wrecker  
30 services within the District and do not exceed the wrecker service's charges for nonrotation service  
31 calls that provide the same service, labor, and conditions. The District First Sergeant shall retain a  
32 copy of all approved price lists in the appropriate wrecker service file located in the district office.  
33 Storage fees shall not begin to accrue until the next calendar day following the initial towing of the  
34 vehicle. Wrecker service towing fees for recovery and transport of vehicles after 5:00 p.m. and on  
35 weekends may not exceed the towing fees for recovery and transport of vehicles charged during  
36 regular "Business Hours" by more than 10 percent. A mileage fee may only be charged if the customer  
37 requests the vehicle to be towed to a location outside of the assigned wrecker zone or county. If a

1 mileage fee is warranted, the wrecker driver shall inform the owner, operator or legal possessor of the  
2 vehicle of any additional charge for mileage prior to towing. Each Troop Commander shall designate  
3 a Troop Lieutenant to serve as a Rotation Wrecker Liaison for their respective Troop. The individual  
4 price list for each respective wrecker service shall be made available to customers upon request.  
5 Copies of the approved price list shall be maintained within each wrecker and shall be given to the  
6 owner, operator or legal possessor of a vehicle being towed as a result of a Highway Patrol rotation  
7 wrecker call by the wrecker driver, if the owner, operator or legal possessor of the vehicle being towed  
8 is present at the scene. Prices indicated on this form shall be the maximum amount that will be  
9 charged for a particular service; however, this does not prevent charges of a lesser amount for said  
10 service.

- 11 (11) All wrecker operators shall have a valid driver's license for the type of vehicles driven; a limited  
12 driving privilege is not allowed.
- 13 (12) Wrecker owners, operators and employees shall not be abusive, disrespectful, or use profane language  
14 when dealing with the public or any member of the Patrol and shall cooperate at all times with  
15 members of the Patrol.
- 16 (13) The wrecker service shall adhere to all Federal and State laws and local ordinances and regulations  
17 related to registration and operation of wrecker service vehicles and have insurance as required by  
18 G.S. 20-309(a).
- 19 (14) The wrecker service shall employ only wrecker operators who demonstrate an ability to perform  
20 required services in a safe, timely, efficient and courteous manner and who satisfy all of the  
21 requirements for wrecker drivers established or referenced ~~herein~~ herein; and shall not allow  
22 unauthorized passengers when responding to Highway Patrol rotation calls.
- 23 (15) The wrecker service must notify the District First Sergeant of any insurance lapse or change. Wrecker  
24 Services shall ensure the NC Highway Patrol is listed as "Certificate Holder" on the Certificate of  
25 Liability Insurance, in c/o the District First Sergeant, complete with the current mailing address for the  
26 Highway Patrol District Office tasked with the responsibility for ensuring compliance with Highway  
27 Patrol policy regarding the respective wrecker service.
- 28 (16) The wrecker service shall notify the Patrol whenever the wrecker service is unable to respond to calls.
- 29 (17) Notification of rotation wrecker calls shall be made to the owner/operator or employee of the wrecker  
30 service. Notification shall not be made to any answering service, pager or answering machine.
- 31 (18) Wrecker service vehicles shall be marked on each side by printing the wrecker service name, city and  
32 state in at least three inch letters. No magnetic or stick-on signs shall be used. Decals are permissible.  
33 The wrecker service operator shall provide a business card to the investigating officer or person in  
34 apparent control of the vehicle before leaving the scene.
- 35 (19) Each wrecker service vehicle must be registered with the Division of Motor Vehicles in the name of  
36 the wrecker service and insured by the wrecker service. Dealer tags shall not be displayed on wreckers  
37 that respond to rotation calls.

- 1 (20) Wrecker Services shall secure all personal property at the scene of a collision to the extent possible,  
2 and preserve personal property in a vehicle which is about to be towed.
- 3 (21) Upon application to the Patrol Rotation Wrecker List, the owner shall ensure that the owner and each  
4 wrecker driver has not been convicted of, pled guilty to, or received a prayer for judgment continued  
5 (PJC):
- 6 (A) Within the last five years of:
- 7 (i) A first offense under G.S. 20-138.1, G.S. 20-138.2, G.S. 20-138.2A or G.S. 20-  
8 138.2B;
- 9 (ii) Any misdemeanor involving an assault, an affray, disorderly conduct, being drunk  
10 and disruptive, larceny or fraud;
- 11 (iii) Misdemeanor Speeding to Elude Arrest; or
- 12 (iv) A violation of G.S. 14-223, Resist, Obstruct, Delay.
- 13 (B) Within the last ten years of:
- 14 (i) Two or more offenses in violation of G.S. 20-138.1, G.S. 20-138.2, G.S. 20-138.2A  
15 or G.S. 20-138.2B;
- 16 (ii) Felony speeding to elude arrest; or
- 17 (iii) Any Class F, G, H or I felony involving sexual assault, assault, affray, disorderly  
18 conduct, being drunk and disruptive, fraud, larceny, misappropriation of property or  
19 embezzlement.
- 20 (C) At any time of:
- 21 (i) Class A, B1, B2, C, D, or E felonies;
- 22 (ii) Any violation of G.S. 14-34.2, Assault with deadly weapon on a government officer  
23 or employee, 14-34.5, Assault with firearm on a law enforcement officer; or G.S.  
24 14-34.7, Assault on law enforcement officer inflicting injury;
- 25 (iii) Any violation of G.S. 20-138.5, Habitual DWI. For convictions occurring in  
26 federal court, another state or country or for North Carolina convictions for felonies  
27 which were not assigned a class at the time of conviction, the North Carolina  
28 offense which is substantially similar to the federal or out of state conviction or the  
29 class of felony which is substantially similar to the North Carolina felony shall be  
30 used to determine whether the owner or driver is eligible. Any question from the  
31 owner of a Wrecker Service concerning a criminal record shall be discussed with  
32 the First Sergeant or his designee; or
- 33 (iv) Three felony offenses in any federal or state court or combination thereof. The  
34 commission of a felony is not considered to be a second or subsequent felony unless  
35 it is committed after the conviction or guilty plea to the previous felony.
- 36 (22) Upon employment or upon the request of the District First Sergeant, the owner of the wrecker service  
37 shall supply the Patrol with the full name, current address, date of birth, and photo copy of drivers

1 license, valid work VISA, or other INS Documentation for all wrecker drivers and owner(s) in order  
2 for the Patrol to obtain criminal history information. The Wrecker Service shall also provide a  
3 certified copy of the driving record for the owner and each driver authorized to drive on rotation upon  
4 initial application, upon the hiring of a driver if hired after initial application, and at the time of  
5 periodic wrecker inspections. The wrecker service shall inform the District First Sergeant if the owner  
6 or a driver is charged with, convicted of, enters a plea of guilty or no contest to, or receives a prayer  
7 for judgment continued (PJC) for any of the crimes listed in Subparagraph (21) of this Paragraph.  
8 Upon notification that a driver or owner was charged with any of the crimes listed in this Rule, the  
9 Patrol may conduct an independent administrative investigation. Willful failure to notify the District  
10 First Sergeant as required herein shall result in removal from the rotation wrecker service for a  
11 minimum of 12 months.

12 (23) Upon request or demand, the rotation wrecker shall return personal property stored in or with a  
13 vehicle, whether or not the towing, repair, or storage fee on the vehicle has been or will be paid.  
14 Personal property, for purposes of this provision, includes any goods, wares, freight, or any other  
15 property having any value whatsoever other than the functioning vehicle itself.

16 (24) The wrecker service shall tow disabled vehicles to any destination requested by the vehicle owner or  
17 other person with apparent authority, after financial obligations have been finalized.

18 (25) Unless the vehicle is being preserved by the Patrol as evidence, the wrecker service shall allow  
19 insurance adjusters access to and allow inspection of the vehicle at any time during normal working  
20 hours.

21 (26) Being called by the Patrol, to tow a vehicle, does not create a contract with or obligation on the part of  
22 Patrol or Patrol personnel to pay any fee or towing charge except when towing a vehicle owned by the  
23 Patrol, a vehicle that is later forfeited to the Patrol, or if a court determines that the Patrol wrongfully  
24 authorized the tow and orders the Patrol to pay transportation and storage fees.

25 (27) Being placed on the Patrol Rotation Wrecker List does not guarantee a particular number or quantity  
26 of calls, does not guarantee an equivalent number of calls to every wrecker service on the rotation  
27 wrecker list, nor entitle any wrecker service to any compensation as a consequence for not being called  
28 in accordance with the list or when removed from the rotation wrecker list.

29 (28) The failure to respond to a call by the Patrol shall result in the wrecker service being placed at the  
30 bottom of any rotation wrecker list and the wrecker service shall then be "automatically by-passed"  
31 when that wrecker service comes up for its next rotation call.

32 (29) The District First Sergeant or his designee shall subject rotation wreckers and facilities to inspections  
33 during normal business hours.

34 (30) A rotation wrecker service, upon accepting a call for service from the Patrol, must use its wrecker.  
35 Wrecker companies shall not refer a call to another wrecker company or substitute for each other.

36 (31) If a rotation wrecker service moves its business location or has a change of address, the owner of the  
37 wrecker service must notify the District First Sergeant of the new address or location. Notification

1 shall be made in writing, no later than ten days prior to the projected move. The wrecker service is not  
2 entitled to receive rotation calls prior to inspection of the new facility.

3 (32) A wrecker service may dispatch either a wrecker or a car carrier "rollback" in response to a Patrol  
4 rotation wrecker call, except where the wrecker service is advised that a particular type of recovery  
5 vehicle is needed due to existing circumstances.

6 (33) A rotation wrecker driver or employee shall not respond to a Patrol related incident with the odor of  
7 alcohol on his/her breath or while under the influence of alcohol, drugs or any impairing substance.

8 (34) A wrecker service shall have in effect a valid hook or cargo insurance policy issued by a company  
9 authorized to do business in the State of North Carolina in the amount of fifty thousand dollars  
10 (\$50,000) for each small wrecker and one hundred fifty thousand dollars (\$150,000) for each large  
11 wrecker or as otherwise required by Federal regulation, whichever is greater. In addition, each  
12 wrecker service shall have a garage keeper's insurance policy from an insurance company authorized  
13 to do business in the State of North Carolina covering towed vehicles in the amount of one hundred  
14 thousand dollars (\$100,000).

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

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

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

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

28  
29 *History Note: Authority G.S. 20-184; 20-185; 20-187; 20-188;*  
30 *Temporary Adoption Eff. June 9, 2000;*  
31 *Eff. April 1, 2001;*  
32 *Amended Eff. April 1, 2010; July 18, 2008;*  
33 *Transferred from 14A NCAC 09H .0321 Eff. June 1, 2013.*  
34 *Amended Eff. July 1, 2014.*