

**CHAPTER 15B-9 WRECKER QUALIFICATIONS AND ALLOCATION SYSTEM**

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**15B-9.001 Scope and Purpose.**

(1) These rules apply only to those wrecker operators who participate in the division's call allocation system established in this rule chapter.

(2) These rules are designed to assist private and commercial users of the highways of this State by insuring that only qualified, reputable wrecker operators and equipment are provided for removal of wrecked, disabled, stolen or abandoned motor vehicles in the event the owner or operator is incapacitated, unavailable or leaves the procurement of wrecker service to the discretion of the Highway Patrol trooper at the scene.

(3) These rules do not apply to a vehicle owner's request for utilization of a specific wrecker operator, whether or not such operator is qualified under these rules. In such event, the owner's request will be honored without resort to these rules unless there will be an unreasonable time delay or a traffic problem exists.

*Specific Authority 321.051 FS. Law Implemented 321.051, 321.05(1) FS. History--New 1-22-86, Formerly 15B-9.01, Amended 10-15-92.*

**15B-9.002 Definitions.**

(1) Abandoned Vehicle – An unattended vehicle which is directed by the Division to be removed because it is improperly parked in violation of s. 316.194, s. 316.1945, or s. 316.1951, F.S.

(2) Answering Service – A commercial enterprise, which pursuant to a contract or agreement, receives calls and relays messages to the wrecker service such that the calls are answered by persons other than the owner or an employee of the wrecker service.

(3) Commercially manufactured wrecker – A tow truck that is:

(a) Designed and constructed by a wrecker manufacturer which offers its wreckers for sale or

(b) Assembled by a business licensed and approved to assemble and certify wreckers according to manufacturer's specifications.

(4) The Division – The Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles.

(5) Failure to answer a call for service:

(a) Failure to answer the telephone when called by the duty officer, or

(b) Failure to arrive at the scene after accepting a call.

(6) Roll-back or slide-back carrier: A vehicle transporter, including trailer, designed to carry passenger cars, light trucks, small trailers, burned vehicles, sports cars, boats and other cargo without causing further damage. It shall consist of a flat bed-type body which hydraulically slides back on the frame until it reaches ground level to facilitate loading by use of a winch which is used to pull or slide the vehicle on the transporter.

(7) Solicitation – Conduct of an owner, employee or agent of a wrecker service which tempts, entices, suggests, offers services to, or makes requests of any persons regarding removal of a vehicle involved in an accident or a disabled vehicle without authority of the division.

(8) Wrecker Operator or Operator – The individual, partnership, corporation or business entity engaged for hire in the recovery, towing or removal of wrecked, disabled, stolen or abandoned motor vehicles. For the purpose of these rules, a hired driver or employee shall be governed by these rules, and, unless otherwise stated, shall be considered an agent of the wrecker operator.

(9) Zone – An area designated by a troop commander, pursuant to Rule 15B-9.003, F.A.C.

*Specific Authority 321.051 FS. Law Implemented 321.051, 321.05(1) FS. History--New 1-22-86, Formerly 15B-9.02, Amended 10-15-92.*

**15B-9.003 Call Allocation System.**

(1) Each Troop Commander shall divide his troop into zones with clearly defined boundaries for the purpose of establishing wrecker rotation lists. The Troop Commander's decision shall be reviewable by the Division Director or his designee.

(2) Each wrecker operator must make application to the division for inclusion on the wrecker rotation list.

(a) Each application for inclusion shall be completed, and signed, and shall be filed with the division. The application shall be made on HSMV form 60315.

(b) A division representative shall investigate each application. The investigation will include the following: background checks; criminal history checks; driver's license status/record checks; and inspection of the applicant's wrecker(s), equipment and facilities. The investigator will, at the conclusion of his investigation, report the findings and make a recommendation to the troop commander in writing. The troop commander will decide whether the wrecker operator is approved or denied inclusion on the wrecker rotation list according to Rules 15B-9.003, 15B-9.005, 15B-9.006, 15B-9.007 and 15B-9.011, F.A.C. The troop commander's decision may be reviewed by the division director or his designee.

(c) The Division shall deny the applicant's inclusion on the wrecker rotation list if the wrecker operator:

1. Fails to meet or comply with the provisions of these rules, or

2. Fails to maintain any local or state license required for the operation of a wrecker service.

(3) To be eligible for inclusion on the wrecker rotation list to tow in a particular zone, the wrecker operator's place of business must be located in that zone.

(a) An operator's place of business must have the following:

1. The business must have a sign that identifies it to the public as a wrecker establishment. The sign must be painted with letters of at least four (4) inches in height and placed so that it is clearly visible to the public.

2. The place of business must maintain office space.

3. The office must have personnel on duty from at least 8:00 a.m. to 5:00 p.m., Monday through Friday to answer calls from the duty officer and to serve the public. However, on the following holidays observed by state agencies, no personnel are required to be on duty at the office to serve the public: New Year's Day; Birthday of Martin Luther King, Jr., third Monday in January; Memorial Day; Independence Day; Labor Day; Veteran's Day, November 11; Thanksgiving Day, Friday after Thanksgiving; Christmas Day; if any of these holidays fall on Saturday, the preceding Friday shall be observed as the holiday; if any holiday falls on a Sunday, the following Monday shall be observed as the holiday.

4. The place of business must maintain a telephone communications system to answer calls from the duty officer or from the public, twenty-four hours a day.

5. The wrecker operator must maintain at least one tow truck and one qualified driver for the place of business.

(b) Any tow truck(s) operating within the zone shall have the zone address, telephone number and other information on the side of the truck clearly visible to the public as provided in subparagraph 15B-9.005(7)(a)5., F.A.C.

(c) If there is not a qualified operator in a particular zone, the Division director or his designee may designate qualified out-of-zone wrecker operators to be called in that zone.

(4) Wrecker operators located within a zone, as defined herein, shall be called by the Division for the removal of a wrecked, disabled, stolen or abandoned vehicle by the division according to the operator's placement on a Division wrecker rotation list for that zone and according to the wrecker classification for the size of the vehicle to be towed. Wrecker operators will be called in succession from the top of the list. Following each call an operator will be rotated to the bottom of the list, except as provided in subsection (18) of this rule. An operator shall respond to a call with a tow truck classified to meet or exceed the size of the vehicle to be towed.

(5) The wrecker operator may not lease, assign, transfer, pledge, surrender or otherwise encumber or dispose of his approval under these rules or his place on the rotation list. A replacement or successor operator must be approved under these rules before being placed within the division's call system. If a wrecker operator currently participating in the rotation list transfers ownership to another wrecker operator, the new owner may remain in the rotation system provided that it otherwise qualifies pursuant to these rules.

(6) Wrecker requests from the field will be transmitted to the Florida Highway Patrol duty officer who will contact the proper wrecker operator for the zone in which the vehicle to be removed is located. Owners' requests for wrecker operators will not be rotated and such operators will maintain their position on the list. The division may cancel a request for services of a participating wrecker operator at any time. In the event of cancellation or response without rendering service, the operator will not be rotated but will maintain its position on the list. If a wrecker does not respond to a request for service made under these rules or if the request is cancelled pursuant to Rule 15B-9.004, F.A.C., the operator shall be rotated to the bottom of the list.

(7) Wrecker operators will be listed only once on each list and only in the name under which they are qualified under the provision of this rule and conducting business in this state. It is prohibited for a wrecker operator conducting business at one location to receive multiple listings or classifications by utilizing a different or fictitious name for trucks operating out of the same location or out of different locations within the same zone. When two or more corporations are owned by the same individual, partnership or parent corporation, each may have a separate listing only when each has a separate location and different corporate officers. It is prohibited for two or more wrecker operators owned in whole or in part by the same individual, partnership or parent corporation to be qualified to operate in the same zone.

(8) Wrecker operators shall only respond to accidents or remove vehicles involved in an accident within the division's jurisdiction pursuant to a call received directly from a law enforcement agency as set forth in these rules. In the event of a call to a wrecker operator by someone other than a law enforcement agency, such operator shall first clear the call through the closest division office before proceeding to the scene.

(9) Long distance calls between the division's duty officer and the wrecker operators shall be without cost to the division. Wrecker operators shall have no more than one day and one night telephone number. The wrecker operator will notify the duty officer at the time the call is received whether or not it will respond. The wrecker operator shall notify the division of any change of numbers.

(10) Wrecker operators shall be on call twenty-four hours a day, seven days a week. Except as provided in this subsection, answering services or beepers are not permitted. The Troop Commander may approve the use of an answering service by a wrecker operator if, due to the limited number of operators in a zone, no undue burden is placed on the Division. The wrecker operator must acknowledge the rotation call by contacting the duty officer within 5 minutes after the rotation call was received by the answering service. If the wrecker operator does not acknowledge the call as required by this subsection, the duty officer shall cancel the call, rotate the wrecker operator to the bottom of the list and request the services of the next available wrecker operator.

(11) Wrecker operators are prohibited from calling the Florida Highway Patrol station to ascertain their current placement on the rotation list.

(12) Out-of-zone wrecker requests are permitted in the event of an emergency or the absence of a wrecker of proper classification within the accident or removal zone.

(13) In the event of specialized recovery requirements not otherwise met by the wrecker operators within the given zone, the division may call specialized recovery equipment on a nearest available basis.

(14) For multiple car accidents involving multiple disabled vehicles, the wrecker operator subject to call by class from the rotation list will be advised by the duty officer of the number of tow trucks needed to separately remove each vehicle. The wrecker operator will be given the option of removing all of the disabled vehicles to be removed if the operator maintains the number of qualified drivers and tow trucks to accomplish removal within the zone. If the wrecker operator in the zone lacks the capacity within the zone to remove all of the vehicles, it shall nevertheless be called and additional wrecker operators called as needed from the rotation list. Class C operators, which maintain one or more Class C units in a particular zone, may respond to a Class C call by utilizing approved Class C units owned by that operator from adjacent zones or by using approved Class C units from another approved Class C operator located in the same or adjacent zones, provided that the response can be made within a reasonable time under existing conditions and circumstances. The first wrecker on the list will have a choice of wrecked vehicles. If the first listed wrecker does not arrive on the scene within a reasonable time, the investigating trooper will assign vehicles to available operators. The first wrecker on the scene may be required to move vehicles from the roadway, and such movement will not affect the choice of wrecked vehicles. No fee shall be charged for such service.

(15) Wrecker files and wrecker logs (form HSMV 61131) shall be maintained at each Florida Highway Patrol Station.

(16) Wrecker operators may request to be taken temporarily off the list once within a 90-day period on form HSMV 60312.

(17) The Troop Commander is authorized to limit the number of wrecker operators participating in a particular zone. Wrecker operators currently participating in the system shall not be affected. The Troop Commander shall establish the number of operators for a zone based on maintaining adequate and timely public service as well as minimizing the Division's management of the rotation system. This number may be revised if the Troop Commander finds that the public is not being adequately served as a result of an insufficient number of qualified wrecker operators.

(18) If a wrecker responds to a call pursuant to these rules and removal of the vehicle is not required, the wrecker operator may charge a reasonable fee for services rendered, which shall include but not be limited to changing a flat tire, providing gas or use of battery jumper cables, assisting in starting a vehicle, or unlocking a vehicle not to exceed \$35. The fee does not include the cost of parts or labor required for any authorized vehicle repairs made at roadside, which may be charged by the wrecker operator in addition to the service fee. A wrecker operator is prohibited from assessing a towing charge if the vehicle is not removed. The wrecker operator which renders services rather than towing a vehicle shall not be rotated to the bottom of the rotation list but shall remain at the top of the list for the next available call.

(19) For a period of at least one year from the date of the rendering of services to a vehicle, as provided in subsection (18), the wrecker operator shall retain a record of the name, driver's license number, address, and telephone number of the driver of the vehicle, the name and address of the registered owner of the vehicle if different from the driver, and the make, model and vehicle identification number of the vehicle which was assisted by the wrecker operator. This information shall be provided to the Division upon request for verification. Providing false information to the Division concerning the services rendered to the vehicle or the identification of the driver or the owner shall result in the removal of the wrecker operator from the rotation list pursuant to subsections 15B-9.007(1), (4), F.A.C.

(20) When a wrecker responds to a call by the Division to remove an abandoned vehicle, the wrecker shall not be rotated to the bottom of the rotation list, but shall remain at the top of the list for the next available call.

Specific Authority 321.051 FS. Law Implemented 321.051, 321.05(1) FS. History—New 1-22-86, Formerly 15B-9.03, Amended 10-15-92.

### 15B-9.004 Response to Calls.

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(1) The wrecker operator shall respond to all requests for service made through the Florida Highway Patrol duty officer within a reasonable time under the existing conditions and circumstances. If response cannot be made within a reasonable time, the wrecker operator shall notify the Florida Highway Patrol duty officer of the estimated time of delay and the reasons for the delay. The duty officer may then cancel the request for service, rotate the wrecker operator to the bottom of the list and request the services of the next available wrecker operator.

(2) Unless authorized by the Florida Highway Patrol duty officer, flashing amber lights shall not be used while responding to a call for wrecker service.

(3) Flashing amber lights shall be used at the scene and when towing from the scene in accordance with Section 316.2397(3), F.S.

(4) When a vehicle is released at the scene by the investigating trooper or representative of the division, the wrecker operator shall not tow the vehicle to any location outside the zone unless the owner so requests.

(5) Any ancillary service, such as the use of dolly, dropping and hooking up linkage, are to be performed only if required and appropriate.

(6) The motor vehicle owner or operator is responsible for payment of charges imposed by the wrecker operator.

(7) The wrecker operator will forfeit a call if the wrecker operator or his employees or agents respond to a call in a non-approved wrecker or in such a condition that the officer on the scene reasonably believes that the vehicle cannot be safely removed. An example of such condition includes being under the influence of alcohol or any chemical substance or controlled substance.

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### 15B-9.005 Wrecker Classification and Required Equipment.

(1) Each tow truck owned or maintained by a wrecker operator shall be commercially manufactured and shall conform to the requirements of this rule. The requirements for commercial manufacture of trucks and equipment are waived for those operators who have been on the division's rotation list for one year prior to January 22, 1986. The wrecker and equipment shall be operable.

(2) The tow truck and equipment shall be inspected by the division's local troop commander or his designee and approved by the troop commander before being placed on the rotation list. Thereafter, trucks and equipment shall be subject to periodic checks as necessary to ensure compliance with these rules.

(3) Sirens on wreckers are prohibited.

(4) The wrecker operator shall not represent or imply on any vehicle, building or correspondence an official relationship between the wrecker operator and the division or any other police agency.

(5) It is prohibited for a tow truck or the business establishment maintained by the wrecker operator to have any equipment capable of monitoring messages or signals or frequencies assigned to the division.

(6) All trucks operated pursuant to this rule shall be equipped with a business-type communication radio or mobile telephone or cellular telephone. There shall be one radio or phone for each truck. Such equipment shall be licensed and approved by the Federal Communications Commission. The mobile radio or telephone shall enable the wrecker operator to communicate with his area of operations from any point within the assigned zone. A citizens band radio does not meet the requirements of this section. The troop commander may waive this requirement for all wrecker operators within a zone upon a showing that due to the limited number of operators in a zone that the installation of such communication devices is unnecessary or cost prohibitive or that the service is not readily available.

(7) Specifications and required equipment shall be as follows:

(a) ALL wreckers (All Classifications) shall include the following:

1. A cradle, tow plate or tow sling to pick up vehicles. The cradle, tow plate or tow sling shall be equipped with safety chains and constructed in such a manner that it will not damage the vehicle to be towed.

2. Dual rear wheels.

3. Clearance and marker lights and all other equipment as required by Chapter 316, F.S.

4. A rotor beam or strobe-type light, amber in color, mounted on the wrecker in such a manner that it can be seen from the front, rear, and both sides.

5. The name, address and telephone number of the wrecker operator for the zone in which the operator is qualified must be painted or permanently affixed in a conspicuous place on both sides of the trucks as required by Section 713.78(6), F.S. A unit number shall be painted on both sides of the cab of each wrecker. The same unit number on two or more wreckers qualified to tow within a zone is prohibited. Multiple addresses and telephone numbers are prohibited.

a. The name must be in letters at least three (3) inches in height.

b. The zone address and telephone number must be at least one (1) inch in height.

c. The unit number must be at least three (3) inches in height and in contrasting color.

d. Magnetic or removal signs or placards will not meet these requirements.

6. At least one heavy duty push broom with a minimum width of twenty-four (24) inches.

7. One square shovel.

8. One ax.
9. One crowbar or prybar with a minimum length of thirty (30) inches.
10. Minimum of one (1) five pound CO<sub>2</sub> or dry chemical fire extinguisher or equivalent. Must be approved type and have a current inspection tag attached.
11. One pair of bolt cutters with a minimum opening of 1/2 inch.
12. One set of jumper cables.
13. One four-way lug wrench.
14. One flashlight.
15. Five thirty minute fuses.
16. One snatch block for each winch with manufacturer's rating to match winch.
17. Extra towing chain six to eight feet in length with hooks.
18. At least three (3) safety cones or triangle reflectors.
19. Fifty pounds of sand or equivalent.

(b) Class "A" Wreckers – For the removal of cars and light duty trucks and vehicles weighing 10,000 pounds gross vehicle weight or less. Specifications and equipment in addition to requirements outlined in paragraph 15B-9.005(7)(a), F.A.C., shall be as follows:

1. A truck chassis with a manufacturer's rated capacity of at least 10,000 pounds gross vehicle weight. A complete, commercially manufactured boom and winch(es) having a manufacturer's combined rating of at least 4 tons must be mounted on the chassis. Hand crank winches do not satisfy these requirements and will not be approved.
2. A minimum of one hundred feet of 3/8-inch cable.
3. Dollies.
4. Flood lights on the hoist.
5. Vehicles which are equipped with wheel lifts or the equivalent may also qualify as Class A tow trucks so long as they are equipped with a boom and all other applicable requirements are met. Wheel lifts shall be rated at a minimum of 3,000 lbs. lift capacity and must utilize wheel safety straps when lifting vehicles by the wheels only.
6. Operators who wish to remove cars and light trucks may have, in addition, a roll-back or slide-back carrier truck/trailer with specifications and equipment as provided in subsection (c) of this rule.
7. HSMV Form 60308 shall be used by the Division for the inspection of Class "A" wreckers.

(c) Class "A" Roll-Back or Slide-Back Wreckers – For the removal of cars and light duty trucks and vehicles weighing 10,000 pounds gross vehicle weight or less. Specifications and equipment for roll-back or slide-back carriers in addition to the requirements outlined in subparagraphs 15B-9.005(7)(a)2.-20., F.A.C., shall include the following:

1. A truck chassis with a manufacturer's rated capacity of at least 10,000 pounds gross vehicle weight with a minimum of a sixteen (16) foot bed, dual rear wheels and a winch with at least 8,000 pound capacity.
2. A minimum of 50 feet of 3/8-inch cable.
3. A minimum of two safety tie-down chains of at least ten (10) feet each in length.
4. Two spot (flood) lights mounted on the rear of the carrier.
5. A roll-back or slide-back carrier trailer shall meet the following requirements:
  - a. A commercially manufactured carrier trailer with a rated capacity of at least 8,000 pounds gross vehicle weight with a minimum sixteen (16) foot bed. A winch with at least 8,000 pound capacity.
  - b. A minimum of 50 feet of 3/8 inch cable.
  - c. Brakes and trailer lights which meet the minimum statutory requirements of Florida law.
  - d. Safety chains.
  - e. Must be towed by and used in conjunction with an approved wrecker that meets or exceeds the class of the vehicle to be towed.
6. HSMV Form 60305 shall be used by the Division for the inspection of roll-back and slide-back carriers.

(d) Class "B" Wreckers – For removal of medium duty trucks or vehicles weighing 20,000 pounds gross vehicle weight or less. Specifications and equipment in addition to the requirements outlined in paragraph 15B-9.005(7)(a), F.A.C., shall be as follows:

1. A truck chassis with a manufacturer's rated capacity of at least 20,000 pounds gross vehicle weight. A complete, twin-winch, commercially manufactured boom and winches having a manufacturer's combined rating of at least ten (10) ton capacity mounted on the chassis. Class B wreckers that were previously approved at 15,000 pounds gross vehicle weight may continue in use within this class, even if sold to another approved rotation operator.
2. A minimum of one hundred feet of at least 1/2-inch cable on each drum.
3. One set of scotch blocks for wheels or hydraulic rear-extendable scotch blocks.
4. Flood lights on the hoist.
5. HSMV Form 60307 shall be used by the Division for the inspection of Class "B" wreckers.

(e) Class "C" Wreckers – For the removal of heavy duty trucks, house trailers, buses, etc., weighing over 20,000 pounds gross vehicle weight. Specifications and equipment in addition to the requirements outlined in paragraph 15B-9.005(7)(a), F.A.C., shall be as follows:

Trailer

1. A truck chassis with a manufacturer's rated capacity of at least 30,000 pounds gross vehicle weight and 50,000 pounds gross vehicle weight for tandem axle trucks. A complete, twin-winch, commercially manufactured boom and winches having a manufacturer's combined rating of at least 25 ton capacity mounted on the chassis.

2. A minimum of two hundred feet of at least 5/8-inch cable on each drum.
3. Air brakes so constructed as to lock the rear wheels automatically upon failure.
4. External air hookup and hoses, to supply air to disabled vehicles.
5. One set of scotch blocks for wheels or hydraulic rear-extendable scotch blocks.
6. Flood lights on the hoist.
7. HSMV Form 60306 shall be used by the Division for the inspection of Class "C" wreckers.

*Specific Authority 321.051 FS. Law Implemented 321.051, 321.05(1) FS. History—New 1-22-86, Formerly 15B-9.05, Amended 10-15-92, 10-2-95.*

#### **15B-9.006 Wrecker Operator Requirements.**

(1) All wrecker operators and drivers must have in their possession a valid Florida driver's license as required by Florida law for the operation of any vehicle to be driven. Prior to approval, the Division shall obtain background information on each driver, including the driver history record. Form HSMV 60314 shall be used by the Division to record such information.

(a) The wrecker operator shall immediately notify the division of any changes in wrecker driver(s), wreckers, wrecker unit numbers, insurance coverage or any other changes relating to ownership or management of the business.

(2) Wrecker operators and their drivers are required to comply and be familiar with the Florida Uniform Traffic Control Law, Chapter 316, F.S.

(3) Wrecker operators properly at the scene of an accident shall remove only the vehicle involved at the direction of the investigating officer.

(4) Wrecker operators shall sweep glass from the roadway and remove all debris or hazards from the scene, and comply with the requirements of Section 316.2044(2), F.S.

~~(5) Wrecker operators shall impound such vehicles as requested by a trooper or a division representative.~~

(6) Wrecker driver(s) shall be thoroughly familiar with the operation of the wrecker he/she is operating.

(7) Except as provided in subsection 15B-9.003(14), F.A.C., for Class C wreckers, wrecker operators who are called from the rotation list shall not delegate or request assistance from another wrecker operator to perform the services necessary to accomplish the recovery or removal of vehicles in that class as defined pursuant to these rules. A wrecker operator unable to perform the recovery or removal shall be rotated and the next rotation wrecker on that list shall be called.

(8) The Department is not responsible for any damage to a vehicle caused by the wrecker operator.

(9) Insurance.

(a) The wrecker operator shall maintain the following policies of insurance according to the minimum limits set forth below. Each policy shall be in the name of the wrecker operator and shall include coverage for towing and storage. The policy shall be effective throughout the period that the wrecker operator is qualified under these rules. It is not the intent of this rule to limit the operator to the types of insurance required herein.

1. Worker's compensation and employer's liability insurance as required by statute.

2. Garage liability insurance in an amount not less than \$300,000 combined single limit liability.

3. Garage keeper's legal liability insurance in an amount not less than \$50,000 for each loss, covering perils of fire and explosion; theft of a vehicle, its parts or contents; riot and civil commotion; vandalism; malicious mischief; and damage to a vehicle in tow.

4. The following minimum levels of combined bodily injury liability insurance and property damage liability insurance required by Section 627.7415, F.S., in addition to any other insurance requirements as required by this rule.

a. Fifty thousand dollars (\$50,000) per occurrence for a wrecker with a gross vehicle weight of less than 35,000 pounds.

b. One hundred thousand dollars (\$100,000) per occurrence for a wrecker with a gross vehicle weight of 35,000 pounds or more, but less than 44,000 pounds.

c. Three hundred thousand dollars (\$300,000) per occurrence for a wrecker with a gross vehicle weight of 44,000 pounds or more.

(b) The insurance coverage required shall include those classifications that are listed in standard liability manuals, which most nearly reflect the operations of wrecker operators.

(c) All insurance policies required above shall be issued by companies authorized to do business in the State of Florida.

(d) The wrecker operator shall furnish certificates of insurance and a "Wrecker Insurance Statement of Compliance" (HSMV form 60313) to the troop commander prior to approval for participation on the rotation list, and thereafter thirty (30) days prior to the expiration dates of the policies. The certificates shall clearly indicate that the wrecker operator has obtained insurance of the type, amount and classifications required for compliance with this rule and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the Division. Upon failure of an approved wrecker operator to provide proof of insurance, as required by this paragraph, the Division shall provide notice to the wrecker operator pursuant to form HSMV 60311, of its non-compliance.

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### 15B-9.007 Grounds for Denial of Inclusion on, or Removal or Suspension from, Rotation List.

(1) Violation of any provision of these rules by a wrecker operator shall be grounds for denial of inclusion on or removal or suspension from, the rotation list.

(2) Violations of the following offenses shall result in a letter of warning from the division's district commander for the first offense, 30 days suspension for a second offense within 3 years, and removal for a third or subsequent offense within 5 years from the first offense:

(a) Chasing or running wrecks in a zone without proper call from the division.

(b) Solicitation.

(c) Failure to answer a call three times within a calendar month.

(d) Inability to properly operate the tow truck in the removal of disabled vehicles or to remove a vehicle without causing additional damage.

(e) Any charge, demand, or request by a wrecker operator of a rate which exceeds the maximum rate established by the Division.

30-DM (3) Removal of a wrecked, disabled or abandoned vehicle without investigation or clearance by a proper law enforcement agency shall result in 30 days suspension for a first offense and removal for a second or subsequent offense within 3 years.

(4) Lack of reputability of a wrecker operator shall result in removal from the rotation wrecker list. For the purpose of this rule, lack of reputability shall mean that the division cannot trust the wrecker operator to safeguard the welfare and property of the public. Lack of reputability shall include, but not be limited to, the following:

(a) Conviction of any felony without restoration of the person's civil rights.

(b) Conviction of any felony or first degree misdemeanor directly related to the business of operating a wrecker, regardless of whether civil rights have been restored. For the purpose of this rule, any offense involving perjury or false statement shall be considered to be directly related to the business of operating a wrecker.

(c) Responding to a call while under the influence of alcohol or any controlled substance or chemical substance.

(5) If a wrecker unit is inspected and fails to meet the requirements of Rule 15B-9.005, F.A.C., the following action shall be taken:

(a) The failed wrecker unit shall be immediately suspended from the list by the division, pursuant to "Notice of Emergency Suspension and Administrative Complaint (Inspection)", form HSMV 60310, until such time as it passes inspection and is approved for use. The operation of a non-qualified wrecker unit is declared to be an immediate serious danger to the public health, safety or welfare requiring the immediate suspension of the wrecker unit. The continued use of a suspended wrecker unit shall constitute grounds for the emergency suspension of the wrecker operator.

(b) In the event this is the only wrecker unit maintained by the operator which has been approved by the division for its class and zone of operation, the wrecker operator shall be suspended immediately by the Division from the list in the zone and for the class. The Division shall issue a "Notice of Emergency Suspension and Administrative Complaint (Inspection)", form HSMV 60310 to effect the suspension. The suspension shall continue until such time as the wrecker successfully passes inspection and is approved for use, or the wrecker operator is removed from the list for failure to pass inspection. The wrecker operator must correct the deficiencies and request to have the wrecker unit re-inspected within 30 days from the date of the suspension. If the wrecker unit has not been re-inspected and approved within the 30 day period, the wrecker operator shall be removed from the list.

(6) Insurance Coverage: If the wrecker operator's insurance policy is canceled or not renewed according to the requirements of Rule 15B-9.006, F.A.C.:

(a) The wrecker operator shall be immediately suspended from the list by the division. Form HSMV 60309 "Notice of Emergency Suspension and Administrative Complaint (Insurance)" shall be issued by the Division. The use of a wrecker by a wrecker operator who does not maintain the insurance coverage required by these rules is declared to be an immediate serious danger to the public health, safety or welfare requiring the immediate suspension of the wrecker operator.

(b) If the required insurance coverage is not obtained and provided to the division on the Statement of Compliance form HSMV 60313 within 30 calendar days of the date of cancellation or expiration, the wrecker operator shall be removed from the list.

(7) Once a wrecker operator has been suspended for more than 30 days or removed from the list the wrecker operator must make a new application for retention or inclusion on the list.

(8) Wrecker operators are responsible for complying with any applicable federal, state, county or city laws, rules or regulations regarding the removal, towing, recovery, storage and notification of owners and lien holders. Wrecker operators shall maintain any local or state license required for the operation of a wrecker service. If the required license is not obtained and provided to the division within 30 days of the date of cancellation or expiration, the wrecker operator shall be removed from the list.

*Specific Authority 321.051, 120.60(8) FS. Law Implemented 321.051, 321.05(1) FS. History—New 1-22-86, Formerly 15B-9.07, Amended 10-15-92.*

### 15B-9.008 Procedure for Denial of Inclusion on, or Removal or Suspension from, Rotation List.

(1) The procedure for denial of inclusion on, or removal or suspension from, a rotation list shall be governed by Chapter 120, F.S., and Rule 15-2.001, F.A.C. Final agency action shall be taken by the Division Director or his designee.

(2) Hearings held by the Division to deny, suspend, or remove a wrecker operator from participating in the wrecker rotation system shall be held by a hearing officer appointed by the Division Director. *Town Admin*

(3) A final order of the Department denying, suspending, or revoking a wrecker operator's participation in the rotation system shall be reviewable in the manner and within the time provided by the Florida Rules of Appellate Procedure only by writ of certiorari issued by the circuit court in the county wherein such wrecker operator shall reside.

*Specific Authority 321.051, 120.60(8) FS. Law Implemented 321.051, 321.05(1), 120.57(1) FS. History—New 1-22-86, Formerly 15B-9.08, Amended 10-15-92.*

#### **15B-9.009 Wrecker Forms.**

The forms identified in this rule chapter are listed below by number, title and effective date. Each form is incorporated by reference. Copies may be obtained by contacting the nearest Florida Highway Patrol station.

- (1) HSMV 60305 (Rev. 7/90), Roll-Back or Slide-Back Carrier Wrecker Inspection Form.
- (2) HSMV 60306 (Rev. 7/90), Class C Wrecker Inspection Form.
- (3) HSMV 60307 (Eff. 7/90), Class B Wrecker Inspection Form.
- (4) HSMV 60308 (Eff. 12/89), Class A Wrecker Inspection Form.
- (5) HSMV 60309 (Rev. 7/90), Notice of Emergency Suspension and Administrative Complaint (Insurance).
- (6) HSMV 60310 (Rev. 7/90), Notice of Emergency Suspension and Administrative Complaint (Inspection).
- (7) HSMV 60311 (Eff. 12/89), Notice of Non-Compliance (Insurance Requirements).
- (8) HSMV 60312 (Rev. 7/90), Wrecker Company Removal Request.
- (9) HSMV 60313 (Rev. 7/90), Wrecker Insurance Statement of Compliance.
- (10) HSMV 60314 (Eff. 12/89), Wrecker Driver Information.
- (11) HSMV 60315 (Rev. 7/90), Application For Inclusion On The Wrecker Rotation List.
- (12) HSMV 61131 (Rev. 4/89), Wrecker Log and Wrecker Call Summary Report.

*Specific Authority 321.051, 120.55(1) FS. Law Implemented 120.55 FS. History—New 10-15-92.*

#### **15B-9.010 Maximum Rates for Towing and Storage.**

(1) Public Service Rates. Wrecker operators located in zones in which maximum rates for towing and storage of vehicles removed at the division's request have been established by a county commission or municipal commission pursuant to s. 125.0103 and s. 166.043, F.S., or other applicable authority, shall comply with those rates.

(2) Procedure for setting Rates. The Troop Commander shall establish maximum towing and storage rates for each zone within the troop which is not otherwise covered by rates set by a county or municipality according to subsection (1) above. In determining such rates the troop commander shall consider:

(a) costs incurred by the wrecker operator in the storage of vehicles, including the rental or purchase of property, insurance premiums, and maintenance of storage facilities,

(b) costs incurred by the wrecker operator in the removal of vehicles including maintenance and operation of wrecker units;

(c) prior or existing contracts between wrecker services and governmental agencies for the removal and storage of vehicles;

(d) towing and storage charges currently imposed by wrecker services for rotation and owner's requests calls.

(3) Rates set by the Division shall consist of the following rate schedule. Separate rates may be established for each tow truck classification (A, B, C, roll-back).

(a) "Base Rate" – The basic charge for responding to a call within a 10-mile radius from the wrecker operator's place of business. It includes attaching to the disabled vehicle and towing it to the place of storage. It also includes no more than a 30-minute wait at the accident scene before commencing actual retrieval. Any waiting time at the scene beyond 30 minutes may be charged at the hourly rate as defined below. Mileage traveled, in going to the scene or in returning to the place of storage, which is beyond the 10-mile radius from the operator's place of business may be billed at the applicable mileage rate.

(b) "Hourly Rate" – The per hour charge for use of a wrecker in retrieving submerged vehicles, upright overturned vehicles, retrieval from ditches or the attachment of dollies. It does not include travel time or the first 30 minutes of working or waiting time on the scene. There shall be no separate charge for winching.

(c) "Mileage" – The rate charged per mile for travel or towing outside of the 10-mile radius from the wrecker operator's place of business.

(d) "Daily Outside Storage Rate" – The daily rate for storing a vehicle in outside storage based on a 24-hour day, each day starting at 12:01 a.m. The initial six hours of storage shall be without charge pursuant to s. 713.78(2)(c), F.S. Thereafter, the daily rate will apply and any fraction of a day will count as a full day.

(e) "Daily Inside Storage Rate" – The separate rate charged for inside storage according to the same criteria as that set forth above for outside storage.

(4) A maximum of \$30.00 may be charged to the owner/driver of a vehicle towed or stored for the preparation, filing or mailing of any forms required by Florida Statutes, local ordinance or the Division, if a vehicle is in storage for more than 24 hours. This paragraph does not apply to any action initiated by a wrecker operator to foreclose a lien recognized by Florida law.

(5) Any wrecker operator qualified under these rules who charges a fee for a particular service or services in excess of the rates established by this rule will be subject to sanctions as set forth in Rule 15B-9.008, F.A.C. A wrecker operator shall not charge the base towing rate fee for a call resulting in service only to a disabled motorist which does not involve towing the vehicle from the scene.

Specific Authority 321.02, 321.051 FS. Law Implemented 321.051, 321.05(1) FS. History—New 10-15-92.

### 15B-9.011 Storage Facilities.

(1) Wrecker operators shall provide storage facilities which shall be maintained at the operator's place of business and located within their assigned zone. These facilities must be fenced and locked for the protection of vehicles and property.

(2) The wrecker operator shall provide storage for all impounded/towed vehicles in the outside storage area unless specific written instructions are given for inside storage by the impounding trooper or the owner. If required for investigative purposes, the wrecker operator shall move the vehicle(s) to a designated area for processing prior to storage. In such instance, the Division will not authorize release of the vehicle until all outstanding charges by the operator, as authorized by the Division, have been satisfied.

(3) The wrecker operator shall not change the type of storage facility (inside or outside) afforded a vehicle without written permission from the Troop Commander. The wrecker operator shall not change the storage facility location without first obtaining written permission from the Troop Commander. *Towing Administration*

(4) If impractical because of zoning or other considerations such as lack of space, storage facilities may be maintained within the same zone at a place other than a wrecker operator's place of business so long as the following requirements are met as to such storage facility:

(a) The storage facility is located in the same zone within 5 miles of the wrecker operator's place of business.

(b) The storage facility must be owned or leased solely by the wrecker operator and vehicles stored by the operator must be separately fenced and locked.

(5) The registered owner of a vehicle or the owner's representatives or owner's insurance adjusters, upon proper identification, shall be permitted to inspect or photograph stored vehicles during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. The wrecker operator shall not require the owner, adjuster or representative to pay any fee in order to inspect or photograph the stored vehicle.

(6) All fencing shall be chain-link or solid-wall type, at least 6 feet high, to discourage theft of any vehicle or any property being stored inside. All storage facilities shall be illuminated with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime.

(7) ~~Permanent~~ inside storage facilities must be available for 24-hour storage when weather or other conditions require inside storage for the protection of the vehicle or personal property. A lean-to, tent or shed does not meet the requirements of this section. Inside storage must be within a weather-tight building.

(8)(a) A minimum of 25 storage spaces with 3 inside storage spaces must be available. Wrecker operators who have been on the Division's rotation system for six months prior to the effective date of this rule may continue on the list without regard to the minimum storage spaces required herein, so long as all other applicable provisions of these rules are met.

(b) Service bays or repair bays do not qualify as inside storage, nor does any area that is utilized for any activity other than serving as a permanent inside storage area, when vehicles are actually stored inside at the request of a law enforcement agency or the owner of a vehicle.

(9) Wrecker operators shall comply with hold orders placed by the Division, including any instructions for inside or outside storage. Vehicles involved in a fatality and sealed by the traffic homicide investigator shall remain intact until the seals are removed by the investigator. No property of any kind shall be released to anyone without authority of the homicide investigator. If no fatality occurred, then the vehicle and the property may be released by the wrecker operator upon valid proof of ownership once the hold is released.

(10) A copy of an ~~inventory~~ *Tow Sheet* prepared by the Division, of all personal property found in a wrecked, disabled or abandoned vehicle shall be provided to the wrecker operator. The wrecker operator shall permit the removal of such property by the vehicle owner or his agent from a stored vehicle during normal business hours without charge. The agent's authority shall be evidenced by a writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths. A signed receipt for each article removed by the owner or his agent shall be obtained. Personal property shall be defined as any item not affixed to the vehicle which was in the vehicle at the time of the tow. In the case of vehicles stored where no "hold order" has been placed, the wrecker operator will directly release any vehicle upon presentation of proper proof of identification and ownership. If these conditions cannot be met due to unusual or extraordinary circumstances, the vehicle will be released only upon authorization obtained from the Division.

(11) Wrecker operators handling the initial tow shall exercise reasonable care and control of parts and contents located in vehicles while under their protection or while in storage.

(12) During the hours from 8:00 a.m. to 5:00 p.m., Monday through Friday, wrecker operators will provide adequate staffing at the storage facility so that personal property may be removed from the vehicle or the vehicle itself may be released without undue delay.

(13) Should it become necessary that personal property be removed from a vehicle or a vehicle be released when the storage facility is not staffed, the wrecker operator will be required to do so and allowed to charge a reasonable fee.

*Specific Authority 321.051 FS. Law Implemented 321.051, 321.05(1) FS. History--New 10-15-92.*