



Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <https://rules.wyo.gov>

Revised June 2020

<u>1. General Information</u>			
a. Agency/Board Name*			
b. Agency/Board Address		c. City	d. Zip Code
e. Name of Agency Liaison		f. Agency Liaison Telephone Number	
g. Agency Liaison Email Address			
h. Date of Public Notice		i. Comment Period End Date	
j. Public Comment URL or Email Address:			
k. Program			
Amended Program Name (if applicable):			
* <input type="checkbox"/> By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.			
<u>2. Legislative Enactment</u> For purposes of this Section 2, "new" only applies to regular non-emergency rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.			
a. Are these non-emergency regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?			
<input type="checkbox"/> No. <input type="checkbox"/> Yes. If the rules are new, please provide the Legislative Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):			
<u>3. Rule Type and Information</u> For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.			
a. Provide the Chapter Number, Title and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			

4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled. No. Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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b. What is the manner in which interested persons may present their views on the rulemaking action?

By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

5. Federal Law Requirements

a. These rules are created/amended/revoked to comply with federal law or regulatory requirements. No. Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:
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Indicate one (1):

The proposed rules meet, but do not exceed, minimum federal requirements.

The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

6. State Statutory Requirements

a. Indicate one (1):

The proposed rule change *MEETS* minimum substantive statutory requirements.

The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b. The Agency has completed a takings assessment as required by W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: _____

7. Additional APA Provisions

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

_____ (Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

_____ (Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

8. Authorization

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	

WYOMING DEPARTMENT OF TRANSPORTATION

STATEMENT OF REASONS

CHAPTER 1, MOTOR CARRIERS

Chapter 1, Motor Carriers, is a revised rule and regulation of the Wyoming Department of Transportation. This rule and regulation is promulgated by authority of W.S. 24-2-105, W.S. 31-5-1701, W.S. 31-18-104(a)(vi), and W.S. 31-18-303 to supervise and regulate the operation of motor carriers as set forth in the Wyoming Commercial Vehicle Act (W.S. 31-18-101 through W.S. 31-18-903).

This rule primarily updates Section 6 provisions related to Towing and Recovery Vehicles. The revisions to both the rule and the accompanying procedures in Appendix B were undertaken after complaints from the public about towing practices in Wyoming. The Wyoming Highway Patrol (WHP) conducted outreach to industry, including a series of meetings and dialogue to determine best practices under current Wyoming law. WHP also surveyed other states about their towing regulations before revising these rules as well as the procedures manual, which have been added to the rule as Appendix B. Equipment requirements were revised to conform to modern industry standards at the request of the Towing Advisory Board, a group of towing professionals in Wyoming that works with WHP.

In addition to the Section 6 updates, this rule revises outdated definitions in Section 2. Terms have been revised to include more relevant and up to date wording. The prior definitions left uncertainty with respect to recovery types versus winch outs and tows, for instance. Communications procedures in Section 4 have also been brought up to date with current electronic business practices. The letter of authority changes throughout the rule have been made to align with modernized Department rules and procedures regarding the types of authority issued to carriers. Other changes have been made to conform these rules to the Secretary of State's required format and improve readability.

Chapter 1

Motor Carriers

Section 1. Authority and Purpose.

These rules of practice and procedure are promulgated by authority of W.S. 24-2-105, W.S. 31-5-1701, W.S. 31-18-104(a)(vi), and W.S. 31-18-303 to supervise and regulate motor carrier operations as set forth in the Wyoming Commercial Vehicle Act (W.S. 31-18-101 through W.S. 31-18-903).

Section 2. Definitions.

(a) Definitions as set forth in W.S. 31-18-101 shall apply insofar as all terms used in these rules and regulations are concerned. All terms used in these rules and regulations shall be construed as defined in Wyoming statutes and the rules and regulations of the Department. These definitions apply to *Wyoming Highway Patrol Policies and Procedures on Rotational Tow and Recovery Operations Manual* found in Appendix B of these rules and regulations, which contain additional definitions pertinent to that manual as well.

(b) “Department” means the Wyoming Department of Transportation (WYDOT).

(c) “Dispute resolution committee” means a committee serving as described in the *Wyoming Highway Patrol Policies and Procedures on Rotational Tow and Recovery Operations Manual* found in Appendix B of these rules and regulations.

(d) “Letter of authority” or “order” means a document issued under W.S. 31-18-101, *et seq.*, by the Department, granting intrastate authority to a person to operate a motor vehicle as a motor carrier transporting persons or property.

(e) “Non-consensual tow” means a tow carrier’s transporting of a vehicle **without** the vehicle’s owner, possessor, agent, insurer, lien holder, or any other person legally possessing or responsible for the vehicle specially requesting or providing a preference for a specific tow carrier. This movement includes transporting or towing the vehicle under lawful circumstances or necessity for the public interest, including removal from roadways to preserve public safety and from public or private property after abandonment or unauthorized parking by the person legally possessing or responsible for the vehicle. Wyoming Highway Patrol (WHP) rotational tows are considered non-consensual tows even when the vehicle owner or operator is present and consents to the non-consensual tow.

(f) “Person” means individuals, associations of individuals, firms, partnerships, companies, corporations, limited liability corporations, their lessees, trustees, or receivers, appointed by any court whatsoever in the singular number as well as the plural.

(g) “Recovery” means the winching, hoisting, up-righting, removing, or otherwise relocating of a vehicle when found in such a location, state, or position that it cannot be safely operated under its own power following the recovery process. If a vehicle is upright and on the roadway, towing or servicing it is not considered a recovery. Class “R” vehicles shall not perform recovery operations.

(h) “Tow” means pulling or hauling a vehicle with a tow and recovery vehicle to a place of safekeeping.

(i) “Tow and recovery vehicle” (also called a “wrecker,” “recovery vehicle,” or “tow truck”) means a vehicle altered or designed and equipped for and primarily used to move disabled, improperly parked, impounded, or otherwise indisposed motor vehicles. Towing may involve recovering a vehicle damaged in a crash, returning a vehicle to a drivable surface after a mishap or inclement weather, or towing or transporting a vehicle on a flatbed to a repair shop or another location.

(j) “Tow truck and recovery carrier” (also called a “tow carrier” or “tow and recovery service”) means any person or entity engaged in the business of operating a wrecker, tow truck, or other vehicle equipped with a mechanical apparatus designed to hoist, pull, or move a vehicle that is wrecked, damaged, disabled, abandoned, or otherwise creating a safety hazard, and which meets all requirements of the local authorities in the respective jurisdiction and the requirements of the Department.

(k) “Winch out” means removing a vehicle from its position typically in a ditch or borrow pit or in mud, snow, water, or another substance that renders the vehicle inoperable. Following the winch out, the vehicle shall be safely drivable using its own power.

Section 3. Exemptions.

(a) The provisions of these rules **do not apply** to those exemptions as set forth in W.S. 31-18-103.

(b) Privately owned motor vehicles used in making nonprofit, educational, or religious tours of the state are exempt from obtaining operating authority.

Section 4. Communications, Addresses, and Notices.

(a) All applications, written communications, and documents shall be sent to the Department’s Regulatory Section of the Motor Vehicle Services Program by:

(i) Physical mail: Wyoming Department of Transportation, Motor Vehicle Services Program, Regulatory Section, 5300 Bishop Boulevard, Cheyenne, Wyoming 82009-3340;

(ii) Fax: (307)777-4772; or

(iii) Email: mvs@wyo.gov.

(b) All applications, communications, and documents are deemed officially received only when delivered to the Regulatory Section of the Motor Vehicle Services Program.

(c) Carriers shall report address changes of their principal place of business to the Department immediately.

(d) All required notices sent to a carrier shall be presumed received if sent to the carrier's last known address as shown on Department records.

Section 5. Carrier Records.

(a) All motor carriers holding operating authority in Wyoming shall keep and maintain adequate records in accordance with all applicable federal regulations.

(b) All records the Department requires shall be available for inspection or audit by any authorized WYDOT representative. The carrier shall, at its own expense, forward such records to the Department upon the request of an authorized representative.

Section 6. Towing and Recovery Vehicles.

(a) All Tow and recovery vehicles shall meet all safety requirements as specified by federal and state regulations.

(b) All tow and recovery vehicles shall be inspected by the WHP and classified as follows:

(i) Class "A" tow and recovery vehicles shall have the following:

(A) A minimum gross vehicle weight rating (GVWR) of 10,000 pounds;

(B) A minimum retracted boom capacity of 8,000 pounds, as rated by the manufacturer;

(C) An individual power take off (PTO) or a hydraulic power winch with a minimum rating of 8,000 pounds, as rated by the manufacturer, with a minimum of 100 feet of 3/8-inch independent wire cable or synthetic rope equivalent on the drum;

(D) A manufactured underlift with a minimum lifting capacity of 3,500 pounds when retracted and a minimum tow rating of 7,500 pounds, as rated by the manufacturer, with safety chains or synthetic rope equivalent; and

(E) Dual rear wheels.

(ii) Class "B" tow and recovery vehicles shall have the following:

(A) A towing vehicle chassis with a manufacturer's capacity of 21,000 pounds or greater GVWR;

(B) A minimum boom capacity of 24,000 pounds when retracted, as rated by the manufacturer;

(C) An individual PTO or a hydraulic power winch with a minimum rating of 12,000 pounds, as rated by the manufacturer, with a minimum of 150 feet of 7/16-inch independent wire cable or synthetic rope equivalent on the drum;

(D) A manufactured underlift with a tow rating of 20,000 pounds and a minimum lift rating of 9,000 pounds when retracted; and

(E) Light and brake hookups for towed vehicles when required for public safety.

(iii) Class "C" tow and recovery vehicles shall have the following:

(A) A minimum GVWR of 35,000 pounds;

(B) A boom with a minimum winch capacity of 40,000 pounds combined, as rated by the manufacturer;

(C) A minimum winch capacity of 40,000 pounds or double winch capacity of 20,000 pounds each with a minimum of 175 feet of 9/16-inch independent wire cable or synthetic rope equivalent on the drum or drums;

(D) Auxiliary air brake lines and hoses connected to buses, tractors, trailers, or other towed vehicles when required as a matter of public safety;

(E) A rear tandem axle or super single tires and wheels with tandem axle drive; and

(F) A minimum underlift tow rating of 26,000 pounds and a minimum lift rating of 24,000 pounds when retracted (if so equipped) or a tow sling or tow bar with a minimum rating of 24,000 pounds.

(iv) Class "L" tow and recovery vehicles shall have the following:

(A) A minimum GVWR of 18,000 pounds;

(B) A minimum individual boom capacity of 5,000 pounds, as rated by the manufacturer; and

(C) An individual PTO or a minimum hydraulic power winch capacity of 5,000 pounds, a minimum 75 feet of 3/8-inch cable or synthetic rope equivalent on the drum,

or a manufactured wheel-lift with a minimum retracting lifting capacity of 3,500 pounds when retracted, **or** an “integrated boom” with a minimum lifting capacity of 3,500 pounds.

(v) Class “R” tow and recovery vehicles shall have the following:

(A) A minimum GVWR of 14,000 pounds or be originally designed and manufactured as a rollback;

(B) A minimum winch capacity of 8,000 pounds, as rated by the manufacturer, with a minimum 50 feet of 3/8-inch cable or synthetic rope equivalent on the drum; and

(C) A bed or box capable of carrying a vehicle with no part of the carried vehicle in contact with the roadway and a minimum bed load rating of 10,000 pounds.

(c) Lighting requirements.

(i) The following lighting shall be required and may be contained within a commercially manufactured light bar:

(A) A minimum of one red light, or a combination of red and blue lights, visible from the front and rear during operation. These lights shall be used only as authorized by W.S. 31-5-102(a)(ii)(C) and W.S. 31-5-928(g).

(B) A minimum of two high-intensity amber lights contained in a light bar or a revolving amber light, an amber strobe light, or two-way flashing amber lights 4 inches in diameter. LED assemblies meeting the visibility requirements shall be allowed. These lights shall be clearly visible 1,000 feet from the front and rear of the vehicle and be mounted as high as practical.

(ii) Towed vehicles shall display working taillights, turn signals, and stop lights that shall be visible from the rear and controlled by the towing vehicle operator.

(d) All tow and recovery vehicles shall comply with the following requirements:

(i) All safety equipment prescribed by the United States Department of Transportation (USDOT) Safety Regulations within the Code of Federal Regulations, Title 49, as adopted for commercial vehicles by WYDOT.

(ii) Equipment capable of removing glass and other debris as prescribed in W.S. 31-5-117(b).

(iii) Safety chains or synthetic rope adequate for securing a vehicle or vehicles with the working load limit applicable for the class of tow and recovery vehicle used.

(iv) Trailers used-for recovery or removal operations shall:

(A) Not exceed the allowable loaded weight, as indicated by the manufacturer GVWR; and

(B) When pulled by a power unit in a recovery operation, have a power unit meeting the lighting and safety requirements specified in state or federal laws or regulations.

(v) Winches, wheel lifts, cradles, tow plates, tow slips, and booms shall be built by a manufacturer of such equipment and shall not be “homemade.”

(vi) Tow and recovery vehicles equipped with fixed booms and/or “true-hitch” are not authorized for recovery operations.

(vii) Class “C” fifth-wheel attachments, including but not limited to “Quickswap,” “Zacklift,” or detachable tow units, shall not be authorized for WHP non-consensual rotation tows.

(viii) Come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable.

(e) Restrictions.

(i) All tow and recovery vehicle operations shall comply with all traffic laws and regulations.

(ii) All persons engaged in towing and recovery within the federal-aid highway rights-of-way shall wear safety apparel meeting federal safety requirements for visibility.

(iii) All tow carriers operating in Wyoming shall notify the WHP Dispatch Communications Center before removing any vehicle on a state highway to verify that no other prior arrangements exist.

(iv) Motor carriers operating tow and recovery vehicles not meeting the requirements of these rules may be subject to Department disciplinary action resulting in, but not limited to, revoking or canceling the carrier’s operating authority.

(v) All tow and recovery vehicles are subject to all applicable federal and state commercial vehicle statutes and rules and regulations.

(vi) The WHP has statutory authority to spot check any tow and recovery vehicle for registration, fuel licensing, letter of operating authority, weight violations, or commercial vehicle or driver inspections.

(vii) If directed by state statutes, tow and recovery vehicles shall stop at Wyoming ports-of-entry.

(viii) No tow and recovery vehicle operator shall transport, nor allow to be transported, any passengers in any vehicle towed, recovered, or hauled by a tow and recovery vehicle. Passengers from these vehicles being transported in the tow and recovery vehicle shall be considered authorized.

(ix) No operator, employee, or individual used by a tow and recovery carrier in a non-consensual tow and recovery operation shall be a member, or affiliate, of any federally identified criminal organization.

(f) Non-consensual towing and recovery.

(i) All non-consensual towing and recovery practices shall be in accordance with Department rules and regulations, all applicable state and federal laws and regulations, and the *Wyoming Highway Patrol's Policies and Procedures on Rotational Tow and Recovery Operations Manual* as set forth in Appendix B of this chapter.

(g) Letter of authority application.

(i) Before performing a tow and recovery service as either a private or contract motor carrier, the tow and recovery vehicle owner or lessee shall apply for and receive from WYDOT the appropriate letter of private or contract authority, or both. The application shall be submitted on forms the Department furnishes.

(ii) After receiving the application, but before issuing the letter of authority, the Department shall inspect the tow and recovery vehicle. A copy of the inspection shall be sent to the Regulatory Section to be placed in the carrier's file. To receive a letter of authority, the tow and recovery vehicle shall meet the specifications for the class requested, and the owner or lessee shall certify that the information furnished is correct.

(h) Inspection.

(i) In addition to any roadside inspections WHP initiates, as described in Section 6(e)(vi) of this chapter, the Department shall annually inspect and determine the condition of the tow and recovery vehicle and its equipment between January 1 and June 30. A copy of the inspection form shall be sent to the Regulatory Section to be placed in the carrier's file, and another copy shall be carried in the vehicle.

(ii) Tow and recovery vehicles not meeting rule requirements at the annual inspection or under inspections found in Section 6(e)(vi) of this chapter may have their letter of authority revoked and canceled.

(i) Special provisions.

(i) An emergency situation may arise to include, but not be limited to, the weather, or the size or location of the crash where the peace officer on scene is authorized to use

any qualified or nonqualified equipment necessary. A rotational list or a special request for a specific tow and recovery carrier may be superseded in these situations.

(ii) Peace officers, while performing their duties, shall not be responsible to pay for services performed by tow and recovery vehicle operators.

Section 7. Cancellation of Authority and Reapplication.

When WYDOT cancels an authority for any violation of this rule, or a motor carrier's failure to file prescribed evidence of insurance, the carrier shall file a new application for authority and pay the filing fee.

Section 8. Leasing Requirements.

(a) **Leased Motor Vehicle Qualifications.** All motor vehicles leased by a carrier shall be qualified by the lessee to operate under that carrier. When motor vehicles owned by one carrier holding operating authority from WYDOT are leased to another person, a copy of the lessee's current letter of authority shall be carried in the power unit. During the lease term, the lessee shall have complete control of the leased motor vehicle and shall be fully responsible for its operation, in accordance with applicable statutes, laws, and regulations—including the requirements of these rules and regulations concerning equipment safety and inspection and insurance coverage.

(b) **Lease Terms and Conditions.** All leases shall be in writing and signed by the parties to it. Leases shall specify the term and the consideration to be paid by the lessee.

(i) During the entire lease term, a carrier shall at all times carry an original copy, a certified copy, or a photocopy of the lease in each vehicle covered by the lease so that it is available for inspection by Department representatives or other authorized persons.

(ii) The Department shall always have the right to examine all motor vehicle equipment leases and approve or disapprove them.

(c) **Equipment Leasing Regulation.** When it appears that a carrier and shipper or any other combination of persons might use a lease arrangement to evade some aspect of regulation within WYDOT jurisdiction, the Department shall institute an investigation and issue a formal complaint if necessary. If the Department determines that the lessor and lessee entered into a motor vehicle equipment lease to avoid regulation by Wyoming statutes or Department rules and regulations, WYDOT may request the Attorney General to institute proceedings in state court, or take whatever action is necessary and proper.

Section 9. Safety Regulations.

(a) The Department requires all motor carriers, as defined in W.S. 31-18-101, and carriers in interstate commerce, as defined in 49 CFR 390.5, to comply strictly with the following:

(i) All Wyoming laws pertaining to safe operation and such rules promulgated by WYDOT;

(ii) The following USDOT hazardous materials regulations: 49 CFR Parts 105 through 107, 109, 110, 130, and 171 through 180; and

(iii) The following USDOT motor carrier safety regulations: 49 CFR Parts 40, 303, 325, 350, 355, 356, 360, and 365 through 399 for interstate transportation and as amended in Appendix A to these rules for intrastate transportation.

(b) WYDOT shall conduct audits and inspections as needed to enforce state and federal laws related to interstate and intrastate motor carrier operations. The Department's authorized employees or agents may enter, inspect, and examine any lands, buildings, and equipment of motor carriers subject to this section in order to inspect and copy any accounts, books, records, or documents to administer and enforce state and federal laws related to motor carrier operation provided:

(i) WYDOT's authorized employees or agents shall schedule an appointment with the motor carrier before entering, inspecting, or examining any facility or records of a motor carrier; but

(ii) If the Department's authorized employees or agents believe that a violation is involved and that a scheduled appointment would compromise the detection of the alleged violation, no appointment is necessary; and

(iii) A motor carrier shall submit its lands, buildings, and equipment for inspection and examination and shall submit accounts, books, records, and documents for inspection and copying in accordance with this section.

(c) When a motor carrier receives a compliance review, the motor carrier shall receive one of the following ratings:

(i) Satisfactory: The carrier may be required to submit a letter of compliance within a designated period to WYDOT. A follow-up compliance review may be conducted; or

(ii) Unsatisfactory: The carrier shall be required to submit a letter of compliance to the Department within 30 days. A follow-up compliance review shall be conducted. If the carrier fails to receive a satisfactory rating, the Department shall take further action against it for noncompliance.

(d) These regulations shall authorize placing a driver out-of-service for driving or working in excess of hours of service or any other conditions identified in the federal safety standards and found by WYDOT to contribute to unsafe operations. These regulations shall additionally authorize placing a vehicle out-of-service because of mechanical or operational dysfunction causing a vehicle to be unsafe under federal safety standards. These regulations shall abide by established federal safety standards.

Section 10. Bills of Lading Regulations.

(a) For-hire motor carriers shall always use and carry in their motor vehicles at all times uniform bills of lading showing all property being transported. The carrier shall deliver copies to both the consignor and the consignee and retain a copy for Department inspection.

(b) Private motor carriers are not required to carry in their motor vehicles a bill of lading or other shipping document, except when transporting a hazardous material as required in 49 CFR 177.817 as adopted by the Department. The requirement for intrastate private carriers shall be governed by Appendix A to these rules and regulations.

Section 11. Hearings and Appeals.

Except for internal procedures conducted by the dispute resolution committee, all practice and procedure for hearings before the Department shall be as provided in Chapter 3, General Section, of the Wyoming Department of Transportation Rules and Regulations.

Appendix A to Chapter 1, Motor Carriers

This appendix consists of Wyoming-specific cross-references, changes, omissions, and additions to 49 CFR Parts 40, 303, 325, 350, 355, 356, 360, and 365-399.

The cross-references set forth below are of general application throughout the rules reproduced in this appendix and shall be applied except when the context of the rule clearly requires otherwise.

- (a) References to “state” shall mean the State of Wyoming.
- (b) References to “Interstate” shall mean “Intrastate.”
- (c) References to “farms” and “farmers” shall include “ranches” and “ranchers.”
- (d) References to “Federal” shall mean “Wyoming.”
- (e) References to such federal persons and entities such as “Secretary,” “Federal Highway Administrator” or “Administration,” “Regional Director,” “District Director,” and other similar references shall mean WYDOT, its employees and duly designated agents, including the WHP, enforcing these rules pursuant to W.S. 31-18-701(b). WYDOT, to promote efficiency in government and to avoid duplication of skills, personnel, and effort, may designate other personnel to provide technical expertise and assistance to the Department as the need arises.

Section 390.5 Definitions. All definitions set forth in W.S. 31-18-101 are incorporated herein by this reference. In addition, in this appendix and for the purposes of these rules:

“Agricultural growing season” means January 1 to December 31 of any calendar year.

“Air-mile” means an international nautical mile of approximately 6,076 feet measured in a straight line and not on an over-the-road basis.

“Commercial vehicle” means as defined in W.S. 31-18-101(a)(iii).

Section 390.21(b)(2) is changed to read:

The motor carrier identification number, if issued by the Federal Highway Administration, shall be preceded by the letters “USDOT.” When issued for Wyoming intrastate carriers, the number shall be preceded by “USDOT” and followed by the suffix “WY,” as in the following example: USDOT 123456 WY.

Section 390.23.

WYDOT directs any motor carrier seeking relief from Section 395.3(b) to contact WHP in writing to request such relief.

WYDOT shall recognize emergency relief exemptions as declared by the President of the United States, the Governor of a state, or authorized designees or representatives having authority to declare emergencies, when such emergencies are declared as prescribed in federal regulations.

Section 391.11(b)(1) is changed to read:

- (1) is at least 18 years old;

Section 395.1(e) is changed to read:

(e) 150 air-mile radius driver. A driver is exempt from the requirements of §395.8 if:

- (1) The driver operates within a 150 air-mile radius of the normal work reporting location.

Appendix B to Chapter 1, Motor Carriers

This appendix contains the *Wyoming Highway Patrol Policies and Procedures on Rotational Tow and Recovery Operational Manual*.

Section 1. Authority and Purpose of Manual.

(a) Wyoming Department of Transportation (WYDOT) has the authority to provide rules and regulations for the safe and efficient removal of vehicles from the highways when the owner is not present under W.S. 31-5-1701. The Wyoming Highway Patrol (WHP) has been delegated this authority to assure procedures are in place for the WHP's voluntary non-consensual rotational list.

(b) The purpose of this manual is to state the policies, procedures, and standards for members of WHP and for towing and recovery carriers with regard to towing service standards. Also, this manual serves to further ensure the safe and efficient removal, storage, and safekeeping of any and all vehicles being towed by and placed into custody of such towing companies.

Section 2. Definitions.

(a) "Abandoned motor vehicle rotational list" means a specific list of approved tow and recovery companies called to remove abandoned vehicles maintained by WHP.

(b) "DRC" means the Dispute Resolution Committee.

(c) "Call-out area" means a rotational call-out area is a unique geographical area defined by boundaries determined by the Wyoming Highway Patrol Division Map. In some instances, a division may be divided into multiple lists. These areas shall be based upon, but not limited to, geographical issues and response times. In some instances, call-out areas may cross divisional boundaries.

(d) "Colonel" means the agency administrator for the WHP.

(e) "Department" means the Wyoming Department of Transportation.

(f) "Executive command staff" means WHP rank consisting of colonel, lieutenant colonel, field operations commander (major) and support services commander (major).

(g) "GCVW" means Gross Combined Vehicle Weight.

(h) “GVW” means Gross Vehicle Weight.

(i) “GVWR” means Gross Vehicle Weight Rating.

(j) “Level 1 safety inspection” means a North American Standard inspection that includes examination of or for driver’s licenses; medical examiner’s certificates and Skill Performance Evaluation certificates (if applicable); alcohol and drugs; driver’s records of duty status as required; hours of service; seatbelts; vehicle inspection report(s) (if applicable); brake systems; coupling devices; exhaust systems; frames; fuel systems; lighting devices (headlamps, tail lamps, stop lamps, turn signals, and lamps/flags on projecting loads); securement of cargo; steering mechanisms; suspensions; tires; van and open-top trailer bodies; wheels, rims, and hubs; windshield wipers; emergency exits and/or electrical cables and systems in engine and battery compartments (buses); passenger vans or other passenger carrying vehicles, and Hazardous Material/Dangerous Good (HM/DG) requirements as applicable. HM/DG required inspection items will be inspected by certified HM/DG inspectors.

(k) “Level 5 safety inspection” means a vehicle-only inspection that includes each of the vehicle inspection items specified in Section 2, paragraph (j) without a driver being present.

(l) “Liability insurance coverage” includes:

(i) “Cargo coverage” which provides protection against all risks of physical loss or damage to freight from any external cause.

(ii) “Garage keeper’s liability” which protects against liability for damage to vehicles in a garage keeper’s care, custody, or control.

(iii) “On-hook coverage” which usually pays to repair or replace a vehicle that the towing company did not own if it is damaged by a collision, fire, theft, explosion, or vandalism while it is being towed or hauled.

(iv) “Vehicle liability” which pays for damages due to bodily injury and property damage to others for which the towing company is responsible.

(m) “Manual” means the *Wyoming Highway Patrol Rotational Tow and Recovery Policies and Procedures Operational Manual*.

(n) “Rotational list” means a list of approved towing companies maintained by the WHP on a rotating basis to tow vehicles.

(o) “TAB” means the Towing Advisory Board.

(p) “Tow carrier” means any person, firm, or corporation engaged in the business of offering towing and recovery services by use of a tow truck and storage facility.

(q) “Tow and recovery program coordinator (TRPC)” means the Primary administrator of the rotational list whose primary duties include, but are not limited to, reviewing and approving applications for acceptance on the rotational list, inspecting towing companies’ vehicles and equipment, responding to questions concerning the rotational list, and participating on the TAB and the DRC. In the event the TRPC is not available, the above responsibilities shall be the duty of the division lieutenant or a designee.

(r) “WHP” means the Wyoming Highway Patrol.

(s) “WHP website” means <http://www.whp.dot.state.wy.us/home.html>.

Section 3. Statement of Intent.

(a) It shall be the policy of WHP to create a rotational list of tow carriers who meet or exceed standards prescribed in this manual under the rules and regulations of WYDOT. The TRPC shall have the authority and responsibility to oversee all completed inspections on each tow carrier business and equipment and also to make sure each driver is qualified before authorization is given to be placed on the rotational list. Only vehicles passing the tow truck inspection will be placed on the rotational list. Absent a vehicle owner’s request for a specific tow carrier, only those tow carriers whose equipment, drivers, procedures, and services conform to the following procedures and standards will be utilized by the WHP. These measures ensure the following for the citizens, who utilize the highways in the State of Wyoming:

(i) That each and every tow carrier is reputable, reliable, and possesses adequate equipment and qualified employees;

(ii) That each tow carrier is properly licensed and insured; and

(iii) That each tow carrier charges a fair and reasonable rate for services rendered.

(b) The WHP shall allow any qualified tow carrier to submit an application for consideration to participate on the rotational list, as determined by this manual. By submitting an application to be placed on the rotational list, each tow carrier agrees and understands that the policies, procedures, and standards within this manual shall strictly govern its initial and continuing position on the rotational list.

(c) The rotational list is strictly voluntary, and a tow carrier may remove its name at any time by contacting the TRPC or respective division lieutenant.

(d) Noncompliance by tow carriers, owners, employees or towing vehicles may result in the immediate removal from the rotational list by the TRPC until compliance is met and verified.

(e) The WHP executive command staff shall be the final authority on all policies, procedures, and standards governed by this manual.

(f) The efficient and safe removal of vehicles from the highways throughout the state when such removal becomes necessary is an important concern of WHP.

(g) It is equally important to provide this service in a fair and reasonable fashion to the motoring public, especially those who are unable to actively remove their vehicles and property from the state highway system after an incident.

(h) Guidelines are established in order to ensure certain standards are maintained by tow carriers on the rotational list and those tow carriers who meet those standards receive reasonable opportunity to provide such service.

(i) These established guidelines ensure the motoring public is treated equitably, fairly, and consistently by tow and recovery companies who are working in concert with the WHP to keep the highway system clear of disabled vehicles.

(j) As a service to the motoring public, the WHP will maintain a current list of tow carriers in each general division area on a rotational basis. The TRPC will supply the WHP Communications Center with an accurate and updated rotational list for each respective division.

(k) It is crucial that the relationship between the WHP and tow carriers on the rotational list is founded upon a common goal of safely and efficiently clearing the highway system of disabled vehicles. Public trust must be maintained while this goal is met.

(l) The working relationship that exists between the WHP and tow carriers can create the impression that tow carriers are part of the WHP. Tow carriers are not a part of the WHP. Tow carriers who work with the WHP, and who are included on the rotational list, shall not conduct business in any fashion that discredits or adversely affects the WHP.

Section 4. Application Process.

(a) The annual inspection process runs from January 1 to June 1 annually, which will be conducted by the division lieutenant. It is the responsibility of each tow carrier to provide accurate forms by email, mail, fax, or hand delivery to the TRPC or Level 1 inspector prior to the beginning of the inspection period.

(b) Each year thereafter, tow carriers desiring to remain on the rotational list shall resubmit **ALL** forms in the same manner listed below in Section 4, paragraph (i). The forms shall be updated to reflect current information as it exists at the time of the annual inspection.

(c) A tow carrier shall be in business for a minimum of one year within the rotational area requested prior to being eligible to operate on the rotational list. A tow carrier currently operating on the rotational list that is sold would be eligible to apply for a position within that specific call-out area if in compliance with all applicable requirements.

(d) No tow carrier will be considered for a position on the small rotational list if their sole equipment listed on their rotation application is a rollback wrecker. A small wrecker, Class A, is required.

(e) Tow carriers shall have a minimum of two Class C wreckers to be considered for the large rotation. The division lieutenant and the TRPC may grant exceptions based on geographical area, the average number of large rotational calls, and the number of tow recovery carriers who operate on that specific large rotation.

(f) Tow carriers shall provide proof of their current Wyoming operating authority for inspection. Information on obtaining Wyoming operating authority can be found on the WHP website.

(g) Tow carriers shall provide a copy of the business's Vehicle Storage and Disposal Facility License. This can be provided on the T/R-5 form.

(h) Tow carriers shall read, review, and comply with this manual, and the WYDOT Rules and Regulations, Motor Carrier Program Rules.

(i) Tow carriers will provide the following documents prior to the start of the business inspection with the required information completed. These forms are available on the WHP website.

- (i) Tow Truck Fact Sheet (T/R-1);
- (ii) Driver Information (T/R-2);
- (iii) Equipment Information (T/R-3);
- (iv) Tow Truck Inspection (T/R-4);
- (v) Tow Truck Business Inspection (T/R-5);
- (vi) Rotational List Signed Guidelines (T/R-6); and
- (vii) Rotational Fee Schedule (T/R-7).

(j) Failure to provide true and accurate information on all forms may result in disciplinary action or denial from operating on the rotational list.

(k) Tow trucks that are required to undergo a Commercial Vehicle Safety Alliance (CVSA) level 1 or 5, may have a decal affixed by a certified Level 1 inspector. Proper disbursement, logging, and accountability of these decals is based on the CVSA requirements.

(l) Following the CVSA safety inspection, the equipment standards must be met as outlined on the T/R-4 form. Upon successful completion of the T/R-4 form, an approved WHP decal will be affixed either above or below the driver's side door handle indicating a successful inspection. The decal will indicate the date of the inspection, class, and vehicle identification number (VIN) of the tow truck.

(m) If a tow truck displays a valid CVSA decal that was issued within ninety (90) days, another CVSA inspection is not required. The inspection number shall be put on the T/R-4 form.

(n) A WHP member will conduct a business inspection using the T/R-5 form upon initial acceptance on the rotational list and upon any changes to the business address.

(o) All paperwork will be forwarded to the TRPC for final inspection for accuracy and consistency. If discrepancies are found in the paperwork, the TRPC will make the proper notifications to ensure the paperwork is rectified.

(p) All completed inspection paperwork will be placed in the company file in the commercial carrier section. Copies of successful vehicle inspections will be sent to the Regulatory Section and to the Compliance and Investigation Section of the Department.

(q) Each T/R-1 will be sent to the WHP Communications Center in Cheyenne upon satisfactory completion to ensure the tow carrier's position on the rotational list.

(r) A rotational fee schedule T/R-7 submitted by a tow carrier shall not be used until approval documentation has been given to the tow carrier by the TRPC.

Section 5. Rates.

(a) Tow carriers shall furnish the WHP with a current and accurate list of charges for various services and agree to present revisions thereof upon any change of rates prior to the implementation of the rate change. The provided T/R-7 form shall be used and be in compliance with Section 5 of this manual. Fees charged shall be fair and reasonable as compared to the industry.

(b) Fees shall not be excessive and shall match similar invoices for calls originated outside of the rotational list.

(i) Fairness is based on other rates and charges rendered for similar services.

(ii) Reasonableness is based on accepted fee schedules, posted rates, possible quotes, invoices, and other documentation of rates.

(c) No additional rate of charge may be applied to any incident simply because the call was initiated from the rotational list. Examples of such prohibited charges would include law enforcement call-out or emergency call-out (when non-rotational calls would not also be subject to the emergency call-out fee).

(d) A call during normal business hours is not considered an emergency call-out.

(e) No reference, actual or implied, to the rate of charge being related to the WHP rotational list or to law enforcement call-outs in general shall be made verbally or in written form when billing or negotiating payment for services, or at any other time during which the tow and recovery carrier or its representative is dealing with the public.

(f) Services not actually performed by a tow and recovery carrier shall not be charged if the services were provided by another entity such as WYDOT, law enforcement, fire department, or others. Services rendered by another entity may include, but not be limited to, traffic control and hazardous material clean up.

(g) No reference, actual or implied, shall be made that gives the impression that the WHP receives any financial gain, or maintains any business relationship with, the tow and recovery carrier providing the service.

(h) It shall be a violation for any tow carrier to charge an excessive towing, recovery, storage, or other services rate.

(i) Utilizing a minimum weight for any class of vehicle or combination of vehicles is not accurate. A certified weight slip from a port-of-entry, WYDOT scale, bill of lading reflecting current cargo, or other document providing an actual weight of the vehicle or combination of vehicles shall be utilized if the actual weight is unknown from the driver or company. A vehicle or combination of vehicles without cargo, shall be charged for its actual weight and not using the GVWR or the GCVWR if provided on the T/R-7 form by the carrier.

(j) Administrative fees shall be fair and reasonable when applied to any type of call.

(k) Storage fees shall be in accordance with the fee schedule provided to the WHP by the tow and recovery carrier and in accordance with Section 11 of this manual.

(l) Tow carriers should have the ability to accept all forms of payment roadside to include credit card, debit card, COMcheck, and cash. If a tow carrier is unable to accept any of these payment options roadside, no additional rate of charge shall be applied to the customer when one of these payment options is requested by the customer roadside. No additional rates shall be applied to obtain payment elsewhere if not collected on scene.

(m) A tow carrier shall have the ability to accept multiple payment options either by credit card, debit card, COMcheck, or cash at the business facility. If a payment option or vehicle availability to a customer is unavailable, no additional rate of charge shall be applied once the services are completed and a request has been made by the customer.

(n) When called from the rotational list, a tow carrier shall include a minimum of the following on each invoice or on an additional sheet of paper:

(i) The name, address, and telephone number of the tow carrier and the name of the individual or entity who requested the service;

(ii) The date and time that the request for service was received, time of arrival, and location;

(iii) The place to which the towed vehicle was transported and the time that it arrived there;

(iv) Mileage to the scene (if applicable) and mileage from the scene to the storage facility;

(v) The date and time the vehicle was placed into an inside or outside storage facility and the date and time it was released (if applicable);

(vi) An itemization of the charges for towing, recovery, storage, and other services rendered;

(vii) The make, model, year, VIN, and, if available, the license plate for the vehicle being towed; and

(viii) A notation that, if a customer has questions or concerns regarding charges, a complaint may be filed using the WHP website.

Section 6. Tow Truck Requirements.

(a) No tow truck may be stationed and/or used in more than one rotational area.

(b) No tow truck may be used, regardless of the situation, by more than one tow carrier without first requesting permission from the WHP prior to each call.

(c) Every tow truck shall be presentable, have a professional appearance, and must be in compliance with all applicable state and federal requirements.

(d) The place of the tow truck inspection must be either asphalt or concrete to allow for movement of the inspector under the tow truck.

(e) The Department hereby incorporates by reference the following uniform regulations:

(i) CVSA 49 CFR Chapter 3, Subchapter B, Appendix G, as the standard for safety equipment (Level 1 or 5) on tow and recovery vehicles with a minimum GVWR of 26,001 pounds (intrastate) or a minimum GVWR of 10,001 pounds (interstate). Adopted by the Department and effective as of May 9, 2022, found electronically at <https://www.govinfo.gov/app/details/CFR-2011-title49-vol5/CFR-2011-title49-vol5-subtitleB-chapIII-subchapB-appG/context>;

(ii) The Department has determined that incorporation of the full text in these rules would be cumbersome or inefficient given the length or nature of the regulations;

(iii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (e)(i) of this section; and

(iv) The incorporated regulations are maintained at WYDOT, 3001 Bishop Boulevard, Cheyenne, Wyoming and are available for the public inspection and copying, at no cost to the public, at the same location.

(f) If the CVSA inspection identifies a defect of any type, the operator is entitled to request a second inspection by another inspector.

(i) If the inspection identifies a non-safety-related defect or deficiency, the operator will be informed of the defect or deficiency and requested to correct it. Failure to correct the defect or deficiency within thirty (30) days of the notice will result in suspension from the WHP rotational towing system until the defect or deficiency is corrected.

(ii) If the inspection identifies a safety-related defect or deficiency, the tow truck will be immediately taken out of service. The tow truck cannot be used until the re-inspection confirms that the defect or deficiency has been corrected.

(iii) If either the inspection form or certification decal is lost, removed, rendered unreadable, or destroyed, the operator must immediately notify the TRPC. The inspection process will be verified before a new certification decal is given.

(g) Should a tow truck respond to a WHP initiated service call with an out-of-service violation, the towing company shall not be permitted to perform services, and the towing vehicle shall be placed out of service. The tow carrier will be moved to the bottom of the rotational list and not be compensated for the call. The next scheduled tow carrier on the rotational list shall be contacted by the WHP Communications Center.

(h) A tow carrier on the rotational list that would like to introduce a new truck to the rotation must first receive a safety inspection. The T/R-1, T/R-3, and T/R-4 forms must also be completed.

(i) In the event a non-approved tow truck arrives at a scene, that tow carrier will be denied the call and moved to the bottom of the rotational list receiving no compensation for the response. The next tow carrier on the rotational list will be called.

(j) A tow truck not meeting the requirements as set forth within this manual will not be allowed to respond to calls originating from the WHP rotational system.

(k) A copy of the most recent T/R-2 and T/R-4 shall be kept in the corresponding tow truck and shall be shown at the request of any WHP member.

(l) All tow trucks must operate in compliance with, and are subject to, all applicable federal and state commercial vehicle statutes, traffic laws, and rules and regulations.

(m) The WHP has statutory authority to spot check any tow truck for registration, fuel licensing, letter of operating authority, weight violations, and commercial vehicle/driver inspections.

(n) If required by state statutes, tow trucks shall stop at Wyoming ports-of-entry.

Section 7. Required Equipment for Tow Trucks.

(a) Equipment requirements must be in accordance with Chapter 1, Section 6(b)(i) through 6(d)(viii).

(b) Sirens on towing vehicles are prohibited per W.S. 31-5-952(d).

(c) The tow carrier's name, city, phone number, and USDOT number must be visible and legible from 50 feet. It shall be painted or permanently affixed in a conspicuous place on both sides of the towing vehicle. Magnetic or stick-on signs will not be permitted.

(d) Additional Required Equipment:

- (i) Minimum of three flags, triangles, or other approved warning devices;
- (ii) Minimum of one, 5-pound dry chemical fire extinguisher or equivalent;
- (iii) Clearance lights on the front of the vehicle;
- (iv) Extension cord or other device to illuminate stop/turn/taillights on the towed unit;
- (v) One shovel and one broom;
- (vi) Two-way radio, mobile, or cellular phone;
- (vii) Steering wheel clamp or equivalent;

(viii) Other equipment as outlined on the T/R-4 form; and

(ix) Every tow truck shall have a manufacturer data plate affixed or a wrecker manual outlining the safety ratings.

Section 8. Driver Requirements.

(a) The TRPC will maintain a copy of all required training in the tow company's file. All applicable training can be found on the WHP web site.

(b) Effective January 1, 2023, all tow truck drivers shall provide certification they have successfully completed Traffic Incident Management (TIM) training in accordance with the Federal Highway Administration. It is the responsibility of the tow carrier to ensure each driver has attended this training prior to responding to any calls on the WHP rotational list.

(i) TIM recertification training will be required every three years, and the certificate of completion shall be provided to the TRPC.

(c) All towing carrier drivers shall have **one** of the following requirements prior to being eligible for the rotational list and responding to any rotational call:

(i) Documentation certifying the tow truck operator has a minimum of one year for light duty or;

(ii) Three years for heavy duty experience or;

(iii) Completion of a nationally accredited program. These can be found on the WHP website or their respective website:

(A) Towing and Recovery Associations of America, online based.

(B) Wreckmaster, which provides classroom, hands on, and online training; or

(iv) The TRPC may determine training that is not specifically listed under paragraph (c) of this section is acceptable in accordance with Occupational Safety and Health Administration requirements. The tow truck driver is required to provide applicable information regarding this training to the TRPC prior to a decision being made. This includes, but is not limited to, course outline, training documents, training hours and completion certificate.

(d) All tow carrier drivers shall have a good working knowledge of the equipment and tow trucks they operate in order to successfully complete all required tasks.

(e) All employees on a scene shall wear a high visibility traffic vest, shirt, or coat in accordance with American National Standards Institute and federal CFR, Title 23, Highways,

Chapter 1, Federal Highway Administration, Department of Transportation, Part 634, Worker Visibility.

(f) All personnel, while performing their duties on a scene, shall wear acceptable and appropriate clothing to perform the necessary tasks, and the clothing shall identify the company.

(g) If an operator responds to a WHP initiated call and violates this section, they would be required to leave the scene, subsequently lose that rotational call-out, and be placed on the bottom of the rotational list.

Section 9. Insurance.

(a) Each tow carrier assumes the liability for personal injury or property damage resulting from a tow carrier employee's intentional or negligent act(s) from the time contact is made with any vehicle to be towed. Each tow carrier assumes full liability for all items in the towed vehicle.

(b) Each tow carrier shall maintain insurance policies for the minimum amounts set forth in this section. The insurance policies shall be in the name of the tow carrier and shall include coverage for towing and storage. The policies shall be valid for at least twelve (12) months.

(c) A certificate of insurance shall be filed with the WHP before a tow carrier is placed on the rotational list. Certificates of insurance must be itemized to indicate amounts of vehicle liability coverage, garage keeper's liability coverage, on-hook coverage, and cargo coverage. The policies shall also disclose all towing vehicles covered. Nothing shall preclude a tow carrier from obtaining coverage in excess of these amounts.

(d) Liability coverage must be equal to or greater than the minimum amounts below. Insurance coverage may be provided in a single policy or separate split policies. Regardless of the type of policy or policies, the total amount of coverage must equal those amounts listed below—per incident, per the requirements under Wyoming operating authority.

- (i) Minimum vehicle liability coverage:
 - (A) Classes A, B, C, and R: \$700,000
- (ii) Minimum on-hook and cargo coverage:
 - (A) Class A and R: \$75,000
 - (B) Class B: \$150,000
 - (C) Class C: \$200,000
- (iii) Minimum garage keeper's liability coverage:

- (A) Class A and R: \$75,000
- (B) Class B: \$150,000
- (C) Class C: \$200,000

(e) Exception: An Umbrella policy is acceptable as long as it covers the above listed categories (vehicle liability, garage keeper's liability, on-hook, and cargo liability) and the amount of coverage is the same or greater than the total of each category's coverage added together.

Section 10. Business Requirements.

(a) The TRPC or the division lieutenant will assign each tow carrier to a specific rotational area. Each Tow Carrier will only be allowed to respond to rotational calls within their designated area unless given prior authorization by a member of the WHP.

(b) Any changes to a division rotational boundary for which a tow carrier resides and works will rest upon the division lieutenant who oversees that division along with the TRPC.

(i) If the request is granted, notification shall be made to the following:

- (A) WHP Communication Center,
- (B) Division lieutenant, or
- (C) TRPC.

(c) A tow carrier shall be listed only once on each rotational list and only in the name under which it is qualified to conduct business in this state.

(d) The WHP prohibits a tow carrier conducting business at one location from receiving multiple listings on that divisional rotational list by using a different or fictitious name or address.

(e) It is prohibited for one or more tow carriers, owned in whole or in part by the same individual, partnership, or Parent Corporation to be qualified to participate on the same rotational call out area.

(f) No tow carrier owner shall have a vested interest in another tow carrier within the same rotational area. Only one tow carrier is allowed per rotational area if owned by the same individual or corporation.

(g) Each tow carrier shall be completely independent of any other tow carrier within that same rotational area. For the purpose of these guidelines, a tow and recovery company is defined by a unique operating authority, phone number(s) for rotational call-out purposes, an

actual physical business address, business facility from any another tow and recovery company, mailing address, business license, insurance policy, storage facility, EIN filing number, and own towing equipment.

(h) A tow carrier shall not rely upon any other tow carrier for assistance with normal day-to-day functions.

(i) An actual business office shall be located at the physical address that is used for the business facility on the application forms.

(j) Each tow carrier shall be domiciled in Wyoming.

(k) In counties where there are multiple divisional boundaries, a tow carrier may be listed in each division if the towing company has distinctly separate storage facilities within the division and separate and distinct equipment and business offices located within each division. The storage facilities and equipment shall meet the standards set forth in this manual.

(l) A tow carrier shall display a plainly visible sign with the carrier's name and phone number outside the business facility for customers to see. The sign shall be plainly visible and legible from the street and have a professional appearance.

(m) Tow carriers who are requesting a position on the rotational list shall not operate on a seasonal or part time fashion, and shall be available on a year round basis.

(n) Towed vehicles shall be accessible to customers and WHP members between the hours of 8 a.m. and 5 p.m. Monday through Friday, excluding state recognized holidays. In the event a tow carrier is unable to release a vehicle during the hours specified above when a reasonable attempt has been made by the customer, storage fees shall not be assessed after that attempt.

(o) If the current tow and storage rates are not posted within the business facility, the company must be able to provide the current rates when requested by a customer.

(p) A chronological record of services rendered as a result of calls initiated by the WHP rotation shall be maintained for a minimum of two years. This will assist in ensuring all disputed invoices are in proper compliance with the fee schedule provided to the WHP by the tow and recovery carrier.

(q) Tow carriers must own or lease the towing equipment in the performance of its towing services, and the equipment must be registered to the company. The tow carrier must notify the TRPC if: A tow truck is sold. The seller must remove the tow truck's certification decal from the door, and it shall be destroyed. The tow truck is not qualified to be used on rotational calls until it has passed an inspection conducted by the WHP.

(r) Tow carriers must employ drivers who possess a valid Wyoming driver's license pursuant to W.S. 31-7-106, unless exempt by W.S. 31-7-107.

(s) All drivers who operate tow trucks with a GVWR of 26,001 pounds (intrastate) or over 10,000 pounds (interstate) as set forth in W.S. 31-7-304, shall possess a current commercial driver's license for the class of vehicle(s) operated.

(t) Prior to the time of the initial application, governed by the provisions of this manual, criminal history background checks on all employees who will have access to any towed vehicle shall be furnished to the WHP. This process will be required every three years after the initial criminal history background check is completed. However, any time a new driver is hired or re-hired, their fingerprints shall be submitted in accordance with the below procedures:

(i) Obtain instructions on the WHP website prior to filling out the blue applicant fingerprint card in order for proper return and acceptance; and

(ii) Contact a local law enforcement agency to schedule a time for a criminal history background check to be completed. Make sure a blue fingerprint card is available at the local law enforcement agency for the scheduled time. A charge may be applied by some agencies to conduct the fingerprints.

(u) Send the fingerprint card along with the required fee using a certified check or money order to the Division of Criminal Investigation. The address can be obtained on the WHP website.

(v) The individual who had the criminal history background check completed shall provide the results to the TRPC, who will place the results in the towing company's file for each driver and anyone who has access to stored vehicles.

(w) All criminal history background checks shall be completed and furnished to the WHP prior to a driver being accepted on the T/R-2 form.

(x) The TRPC shall maintain all criminal history background checks in the towing company's file. All files are to be placed in a secure area that is not accessible to the public, pursuant to National Crime Information Center regulations.

(y) If an employee is found to have a driver's license that is revoked, suspended, or canceled, the TRPC shall notify the tow carrier in writing by email, mail, fax, or hand delivery. The tow carrier shall not permit such an employee to drive any towing vehicle for any reason until that employee has satisfied all legal reinstatement requirements for the license. The tow carrier owner and employee may both be subject to criminal charges if the employee is allowed to drive under these circumstances.

(z) The tow carrier shall maintain an up-to-date driver file for each driver and ensure that each driver's license remains valid.

(aa) If a driver is employed by more than one tow carrier, each tow carrier shall maintain an independent and separate driver file on the driver. In these cases, the driver is only required to submit the results of a criminal history background check one time.

(bb) Tow carriers must notify the TRPC by email, mail, fax, or hand delivery (in writing), of any of the following within 5 business days:

(i) The tow carrier shall submit all new T/R forms to the TRPC when there is a change in ownership. Failure to comply will result in a removal from the rotation;

(ii) The tow carrier shall submit an updated T/R-2 form to the TRPC to reflect any changes to tow truck drivers; or

(iii) Any actions committed by a driver, which would cause their driver's license to be suspended, revoked, or canceled.

(cc) Criminal Convictions and Charges:

(i) A tow carrier owner or driver will not be allowed to participate on the rotational list if convicted of one of the following crimes: burglary, robbery, murder, manslaughter, assault, arson, domestic violence, child abuse, sex crimes, larceny, property crimes, fraud, forgery/counterfeit, eluding, human trafficking, driving while under the influence, controlled substance, or other crimes involving violence, theft, or dishonesty, within the past 10 years.

(ii) If a criminal history background check or other information received by the WHP indicates that a tow carrier owner or driver has been convicted of a felony within the past 10 years that the WHP determines might compromise public safety and security, such owner or driver shall not be approved for the rotational list and shall be notified of such determination by the TRPC.

(iii) If an owner or operator is convicted of a crime listed within this section after a background check was completed, notification must be made to the TRPC within 10 days of the conviction. A failure to disclose the conviction will be a cause for the owner or operator to be removed from operating on the rotational list.

(iv) For the purposes of this manual, a conviction includes any of the following:

(A) An unvacated adjudication of guilt or a determination of a violation in a court of original jurisdiction or an administrative proceeding;

(B) An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court;

(C) A plea of guilty, or nolo contendere accepted by the court;

(D) The payment of a fine or court cost; or

(E) Violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated.

(v) The WHP has the right to remove the tow carrier or driver from the rotational list upon receiving notification of the felony charge(s) or conviction. Such notification shall be made by email, mail, fax, or hand delivery (in writing) by the TRPC within 10 days of being arrested or charged.

(dd) No operator, employee, or individual used by a tow carrier in a non-consensual tow and recovery operation shall be a member or affiliate of any federally identified criminal organization.

(ee) Tow carriers shall not be permitted to take any vehicle towed at the WHP's request to a storage lot other than the storage lot provided by the tow carrier unless otherwise authorized by the investigating WHP Member.

(ff) All tow carrier owners and drivers are expected to know, and shall comply with, all applicable federal/state regulations and traffic laws of Wyoming.

(gg) A tow carrier shall not perform repair work on a towed vehicle without first having obtained the owner's written consent.

(hh) A tow carrier shall transport a towed vehicle to any location requested by the owner/operator after a mutual agreement for payment/payment terms for the services rendered by the towing company is finalized.

(ii) Personal property shall be released to the owner/designee upon their request, unless the WHP member orders otherwise. Personal property is defined as anything not physically attached or mounted to the towed vehicle. Such items may include, but shall not be limited to, clothing articles, tools, and personal items contained in glove boxes or consoles. The tow carrier shall not charge for releasing personal property during normal business hours. This does not apply to anything that is considered part of the vehicle or the contracted load/cargo.

(jj) Any time personal property, cargo, or a vehicle, which has previously been towed, is released to the owner/designee by the towing carrier, the date and time of the release shall be noted on the original bill/receipt, and a copy shall be kept on file at the towing carriers storage facility.

Section 11. Storage Facility Requirements.

(a) Tow carriers shall be equipped to provide adequate storage for the proper safety and security of all vehicles towed at the request of the WHP.

(b) All tow carriers shall provide storage and prevent vandalism of all vehicles towed including the contents of the towed vehicles.

(c) If a storage facility is not adjoined to the tow carrier's place of business, the tow carrier's storage facility shall be identified with a highly visible sign containing the tow carrier's name and phone number. Tow carriers shall comply with the Vehicle Storage and Disposal Facility License requirements.

(d) The place of business, storage facility, and equipment shall be located within the tow carrier's approved rotational area.

(e) Vehicles towed at the request of the WHP shall be stored in a secure storage facility. The requirements as set forth by the Vehicle Storage and Disposal Facility License must be met.

(f) When a Hold Order is placed on a towed vehicle by a WHP member, the vehicle shall be placed in an area of the storage facility that is not accessible to the general public until such time that a WHP member releases the Hold Order on the towed vehicle. The member that requested the Hold Order or immediate supervisor will be the one to release it. When Hold Orders are released, a Vehicle Impound Form P-18(f) shall be completed. To assure adequate compensation, the towed vehicle will be released to the Tow Carrier unless already compensated for services.

Section 12. Call-Out Procedures and Standards.

(a) The rotational call-out system will operate in the following manner. When the need for a tow carrier is determined by the WHP, a tow carrier will be requested through the WHP Communications Center utilizing the rotational list unless a specific tow carrier is requested.

(b) A trooper shall not request a tow truck until on scene or until communication with the driver has been made without exigent circumstances. This will ensure no unnecessary equipment or time delays for the proper equipment to arrive safely on scene. The trooper will relay all pertinent information to the WHP Communication Center to include, but be not limited to, the vehicle make, model, year, where the vehicle(s) are located, and if any special equipment is necessary.

(c) All tow carriers operating on a rotational list are expected to respond to all calls for service when requested by the WHP Communication Center. In the event a tow carrier does not respond, it will result in missing a turn on rotation. This may result in disciplinary action unless extreme circumstances exist.

(d) A special request for a specific tow carrier shall be honored unless:

(i) The requested tow carrier cannot or does not respond in a reasonable time, as determined by a WHP member; or

(ii) The vehicle to be towed poses an immediate traffic hazard, as determined by a WHP Member.

(e) A special request will not affect the tow carrier's position on the rotational list, and a company need not be on the rotational list to be called as a special request.

(f) If a request for a tow carrier is made by another law enforcement agency, that information shall be given to the WHP Communication Center to ensure no other arrangements have been made.

(g) Upon a special request, the tow carrier does not have to be a tow carrier who operates on the rotational list.

(h) The WHP Communications Center will maintain a record log of all requests for tow carriers. This log will include, but will not be limited to, rotational request, personal request, no-answer, turn-down, tow carrier informing the WHP of a vehicle retrieval request they received, and anything else that warrants a log concerning a tow carrier.

(i) Whenever reasonable to do so, the motorist needing assistance will be asked by a member of the WHP if they have a preference for a specific tow carrier. If the vehicle is owned by a company and the driver is unsure, as to the company's preference, an effort by the WHP Communications Center shall be made to contact the respective company. If no preference is articulated, the next tow carrier on the rotational list will be called. If that tow carrier does not respond, then the next tow carrier on the rotational list will be called, and so on.

(j) A no-answer or turn-down response to a call will be considered a missed turn on the rotational list, and the tow carrier for that particular call will be moved to the bottom of the rotational list as if it had responded to the call.

(k) When the WHP calls a tow carrier on the rotational list and receives a busy signal, the dispatcher will wait a minimum of two minutes and then attempt a second call. If the line is still busy on the second call, the call will be considered a no-answer or turn-down call, and the Tow Carrier will be moved to the bottom of the rotational list.

(l) Tow carriers utilizing answering services, answering machines, or voicemail services must confirm acceptance of the call within two minutes by calling the WHP Communications Center. Failure to do so will be considered a missed turn on the rotational list, and the tow carrier will be moved to the bottom of the rotational list. In the event there are exigent circumstances surrounding the removal of a vehicle due to road blockage or adverse weather conditions, the two-minute wait may be waived to expedite a tow carrier's response. If this takes place, the tow carrier will lose their turn and will be placed on the bottom of the rotational list.

(m) The WHP may determine that certain circumstances warrant the use of a tow carrier closest to an emergency, rather than the Tow Carrier next on the rotational list. In these circumstances, the special request made by the WHP shall not affect the tow carrier's position on the rotational list. A tow carrier need not be on the rotational list to be called as a special request. This will also supersede any special request made by the motoring public as a matter of public safety.

(n) The WHP will maintain separate rotational lists for specific classes of tow trucks (small, large, AAA, and abandoned). If the local Sheriff's Department maintains the abandoned vehicle rotational list for a given area, the WHP Communications Center will document when vehicles are removed utilizing the Sheriff's rotational list.

(o) If emergency services are being performed at the scene and the immediate use of a tow truck is not required, WHP members should not request a tow truck until all other services have been performed and are completed. In the event a lengthy response time would be required due to the location, then a request prior to these services being performed is acceptable.

(p) A tow carrier on the rotational list may have no more than two telephone numbers for call-out purposes, and those two numbers shall be listed with the WHP as primary and secondary numbers. Any change in telephone number must be reported immediately to the WHP Communications Center.

(q) Any tow carriers on the rotational list, before responding to any call for service on a state highway and *not dispatched originally by WHP*, shall call the WHP Communications Center at 1-800-442-9090 or (307) 777-4321 and inform the center of the location of the intended response and of any other pertinent information regarding the nature of the call. If the WHP has already dispatched from the rotational list to that particular call, the WHP dispatched tow carrier will be given first preference on the call.

(r) No tow carrier on the rotational list shall solicit or retrieve any vehicle for which another tow carrier has already been called.

(s) All tow carriers are strictly prohibited from "chasing" or "running" of any crashes or breakdowns.

(t) No tow carrier shall stop at the scene of a crash, disabled, or unattended vehicle for the purposes of soliciting business, either directly or indirectly, unless the owner or operator of said vehicle has specifically summoned the tow carrier or its employees or agents to such a scene for towing or recovery purposes. Cruising highways for direct or indirect compensation is prohibited.

(u) No tow carrier shall use any information obtained over a police monitoring device for the purposes of soliciting tow services.

(v) If a tow carrier, currently on the rotational list, arrives at a scene and has received no call from the WHP or from the owner of the vehicle that requires towing, the tow carrier shall be investigated as set forth in this manual. The trooper on the scene shall notify the TRPC and the trooper's chain of command with the applicable information.

(w) If a tow carrier will be out of service for an extended period of time, seven days or longer, they must request to be removed from the rotational list. This request to be removed from the rotational list must be made by calling the WHP Communications Center. The TRPC must reinstate a tow carrier when the Tow Carrier requests to be placed back on the rotation and is qualified.

(x) When called from the rotational list, tow carriers shall provide the WHP with their estimated time of arrival to the incident in minutes. The WHP employee requesting the rotational list tow and recovery carrier may, based upon the circumstances of the incident, determine the predicted response time is too lengthy and may opt for calling the next rotational list tow carriers. If this occurs, the original tow carrier called will be moved to the bottom of the rotational list.

(y) When a recovery operation interferes with the normal flow of traffic on a street or highway, appropriate measures must be taken to provide sufficient warning to the motoring public and sufficient traffic control, so the recovery can be completed in a safe and efficient manner. The WHP will assist with traffic control whenever reasonable and practical, however, other duties may preclude assistance.

(z) The Department hereby incorporates by reference the following uniform rules:

(i) The Manual on Uniform Traffic Control Devices Part 6, adopted by the Department and effective on December 1, 2009, found electronically at mutcd.fhwa.dot.gov. The uniform rules for traffic control adopted by the Department shall govern all traffic control requirements.

(ii) The Department has determined that incorporation of the full text in these rules would be cumbersome or inefficient given the length or nature of the rules;

(iii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (z)(1) of this section; and

(iv) The incorporated rules are maintained at WYDOT, 5300 Bishop Boulevard, Cheyenne, Wyoming and are available for the public inspection and copying, at no cost to the public, at the same location.

(aa) In order for a tow carrier to charge for traffic control or traffic diversion, it must meet the requirements as set forth above.

(bb) Tow carriers shall not transfer a rotational list call-out to another tow carrier. Tow carriers shall not subcontract another tow carrier for assistance when it is unnecessary. Subcontracting for difficult or problematic calls is allowed on a case-by-case basis with approval from the on scene Trooper. The tow carrier originally receiving the call shall remain as the primary carrier for the call.

(cc) Ordinarily, only one tow truck shall be called to any incident. If additional equipment or recovery vehicles are needed to adequately complete a tow (such as a tractor-trailer, heavy equipment, additional wreckers, and so on), the severity of the situation and the estimated response time of additional equipment shall be weighed by the WHP member at the scene. The WHP member shall determine if additional assistance or equipment is required and if another tow carrier and equipment should be called that may have the ability to respond in a

more timely fashion to open the roadway. If the tow carrier requests such assistance for additional equipment, and the WHP member grants the request, the WHP member shall note this through the WHP Communications Center.

(dd) In the event assistance is requested by an out-of-state Tow Carrier, they are subject to all the policies, procedures, and rules outlined herein. The final approval will be determined by the WHP.

(ee) A WHP member shall determine the towing vehicle class and other potential equipment required to safely tow a disabled vehicle, relay that determination to the WHP Communication Center, and the dispatcher shall relay that information to the next scheduled towing company on the rotational list.

(ff) If the first called tow carrier cannot remove the vehicle and does not have another tow truck that can perform the requested task, then the next scheduled tow carrier on the rotational list shall be called by the WHP. This is not a contracted job for either tow carrier, and the second tow carrier will get compensation for the service. The first called tow carrier shall not be paid for responding to the call and will be moved to the bottom of the rotational list. If the WHP member's initial determination of the tow truck required to remove the disabled vehicle is incorrect and the tow carrier responds but cannot perform the task because it does not have the required equipment, then the tow carrier will not be rotated to the bottom of the rotational list.

(gg) Under no circumstance shall a tow carrier be permitted to arrive at the scene without the required tow truck class and equipment and charge for two service calls in order to obtain the required equipment needed. Tow carriers shall not impede the recovery and removal time of a vehicle without the express approval of a WHP member in charge of the scene.

(hh) If severe weather prevents the removal or recovery of a vehicle that is not considered a hazard, the tow carrier shall notify the WHP Communications Center or the on-scene WHP Member of when the vehicle will be removed. The tow carrier shall adequately mark the vehicle that is left with caution tape or something similar in nature. This will provide passing motorists with a visual sign alerting them the vehicle and occupants have already been attended to, hopefully reducing redundant calls and wasting resources.

(ii) If the recovery involves a commercial carrier and a load is compromised, the tow carrier shall notify the commercial carrier immediately. The request will determine if the tow carrier's presence on scene for safekeeping of the load is required.

(jj) No tow truck operator shall transport, or allow to be transported, any passengers in any vehicle being towed, recovered, or hauled by a wrecker, recovery vehicle, or rollback. Passengers from these vehicles are allowed to be transported in the tow and recovery vehicle. If an operator elects to have no passengers in the tow vehicle when sufficient space is available, no additional rate of charge shall be given. In instances like this, calling for a taxi or an additional tow vehicle to transport occupants is unacceptable. If the occupants outnumber the seating within the tow vehicle, other arrangements shall be made with applicable fees.

(kk) All tow carrier operations involving combination units shall be in compliance with W.S. 31-18-802 and W.S. 31-18-808.

(ll) Tow carriers are expressly prohibited from calling the WHP Communication Center or WHP member to determine their position on the rotational list. The tow carrier shall direct all administrative questions to the TRPC.

Section 13. Towing of Hazardous Vehicles.

(a) When a trooper locates a vehicle in a hazardous location, parked in violation of W.S. 31-5-504 or W.S. 31-5-505, the trooper will notify the WHP Communications Center of the following information: 1) location, 2) vehicle description, 3) license plate or VIN if no plate is present or invalid, and 4) nature of the hazard. The trooper will request the WHP Communications Center attempt to contact the registered owner and determine what arrangements have been made to remove the vehicle. If contact with the owner is not possible, the trooper should remove the vehicle pursuant to W.S. 31-5-508. A vehicle inventory form (P-22) will be completed.

(b) If the trooper is notified of the hazardous situation by a third party, it will be the trooper's responsibility to obtain the information required above and follow the same notification process of the owner prior to removal of the vehicle.

(c) In all situations where a hazardous vehicle was removed and the WHP Communications Center was unable to contact the owner (including removals originating from a third party as outlined above), a Notification Form addressed to the registered owner will be sent by the trooper who initiated or approved the tow with copies to their immediate supervisor and the Communications Center. A message left on an answering machine or voicemail is not a substitute for written notification. Notifications that are returned as "undeliverable" will be preserved and forwarded to the division lieutenant with copies to the support services officer, dispatch.

(d) It should be noted, W.S. 31-5-508 requires the vehicle to be "in a position or under circumstances which obstruct the normal movement of traffic." An abandoned vehicle parked alongside the roadway with an unobstructed width of the highway opposite the vehicle may not be a hazard. A vehicle parked after dark without park lights but not obstructing the normal flow of traffic may not, on its own, be a hazard. The formation of a snowdrift by a legally parked vehicle does not, by its own accord, constitute a hazard. (Once a vehicle has been designated as an abandoned vehicle by affixing the Abandoned Vehicle Notice, it must be removed pursuant to W.S. 31-13-104).

(e) Each individual situation should be addressed on its own merits and documented. Photographs, video, or diagrams documenting the hazard are encouraged.

Section 14. Demeanor and Conduct.

(a) While operating on the rotational list, all tow operators and/or employees shall refrain from any acts of misconduct including, but not limited to, any of the following:

- (i) Rude or discourteous behavior;
- (ii) Lack of service, selective service, or refusal to provide service that the operator is capable of performing;
- (iii) Any act of sexual harassment or sexual impropriety;
- (iv) Unsafe driving practices;
- (v) Any acts of discrimination based on a protected group; and
- (vi) Exhibiting any objective symptoms of alcohol or drug use.

(a) All operators of tow trucks, wreckers, and service vehicles shall submit to a preliminary alcohol or drug screening test upon a demand by the WHP if they have reasonable suspicion that an alcoholic beverage or controlled substance has been used by the operator.

Section 15. Complaints.

(a) The owner, operator, or insurer of a vehicle towed by a tow carrier operating on the rotational list may file a written complaint using the T/R-8 form. Once this form is complete, it will be sent to the TRPC who will forward all appropriate documentation to the DRC if the owner, operator, or insurer alleges that:

- (i) The tow carrier charged an excessive towing, recovery, storage, or other services rate;
- (ii) The tow carrier violated WYDOT rules and regulations; or
- (iii) The tow carrier violated procedures of this manual.

(b) All complaints should contain:

- (i) The name of the complainant;
- (ii) The complainant's address, phone number, and email address;
- (iii) The time and manner in which the complainant may be contacted;
- (iv) The name of the tow and recovery carrier;

- (v) The cause of the complaint;
- (vi) Copies of any documents received from or correspondence with the tow and recovery carrier;
- (vii) The names and phone numbers of any witnesses; and
- (viii) Any other facts that may assist the DRC or WHP in investigating the complaint.

(c) Complaints must be signed and submitted in writing to the TRPC. This will be done by using the complaint form (T/R-8). The complaining party shall include the tow and recovery carrier for which the complaint is being filed against including a detailed description of the facts. The TRPC and the T/R-8 form may be found on the WHP website.

(i) All tow carriers shall cooperate with the TRPC and the DRC during all investigations in order to ensure a complete and thorough investigation is complete.

Section 16. Dispute Resolution Committee (DRC).

(a) All tow carrier complaints and invoice disputes will be reviewed by the DRC.

(b) The Commercial Carrier Section will appoint DRC members. The DRC will be comprised of five to eight members with no more than two members from each of the following:

- (i) Tow carrier industry;
- (ii) Wyoming Trucking Association;
- (iii) Insurance industry; and
- (iv) WHP.

(c) Members of the DRC will be appointed by the Commercial Carrier Section and will be comprised of not less than four, and a maximum of five, members:

- (i) Two representatives from the tow carrier industry with each representing a side of the state,
- (ii) A representative of the Wyoming Trucking Association (WTA),
- (iii) A representative of the insurance industry, and
- (iv) A representative of the WHP.

(d) Committee members will serve a 3-year term and may serve more than one term consecutively. There is no limit on the number of terms a representative may serve.

(e) If terms are not staggered and expire at the same time, there will be a transitional period of one month where the new member and the existing member serve together. This will ensure the committee is full at all times.

(f) The commercial carrier captain may at any point remove a member of the DRC for any reason. A candidate will be selected from the list of applications on file and, once appointed, would finish out the remainder of the term.

(g) The DRC shall meet as often as necessary, either in person or by teleconference, to review and resolve disputes or complaints.

(h) An annual meeting will be held by the DRC who will elect a chair presiding over the meetings and hearings. A vice chair will also be elected in case the chair is unable to be present.

(i) Each member serving on the DRC will receive a copy of the complaint with all supporting documents.

(j) A copy of the complaint will be sent to the tow carrier in an attempt to come to a resolution. The expectation is that the tow carrier and the complainant resolve the issues without having a complete and full investigation. A formal response of the resolution should be provided to the TRPC.

(k) If the tow carrier fails to respond within 20 days, beginning on the 21st day, the tow carrier shall be suspended from the rotational list. This will remain in effect until a response has been received by the TRPC.

(l) When the DRC receives a complaint or dispute, it shall:

(i) Set a date, time, and location in which the committee will hear the complaint and provide such information to all parties in the dispute;

(ii) Provide the complaining party an opportunity to address the DRC regarding the complaint;

(iii) Provide the responding party an opportunity to answer the complaining party;

(iv) Provide any other party an opportunity to address the DRC regarding the complaint;

(v) Provide any witness the committee deems relevant an opportunity to address the committee; and

(vi) Retain an audio or video recording of the hearing that may be copied or transcribed at the request of any person who pays the cost thereof.

(m) At the conclusion of the hearing, the DRC, having a majority, will provide a recommendation to the Colonel based on the factual basis of the dispute. The Colonel at the direction of the Director of WYDOT will make the final determination what action will be taken.

(n) DRC members will have access to other tow carrier invoices, statements made by both the tow carrier and the client. WHP evidence may include videos and photos of a crash scene when applicable, crash reports, trooper reports, and T/R-7 form to compare invoices to assure accuracy.

Section 17. Disciplinary Actions.

(a) Any tow carrier, while doing business as a part of the WHP non-consensual rotational system, that violates any state, local, or federal laws, this Manual, or any Department rule, or commits any act that is contrary to public safety, is subject to disciplinary action.

(b) A system has been established when disciplinary action is deemed appropriate and necessary. Violations are separated into two categories, minor and major, to ensure they are issued on an equal and fair basis.

(c) Violations not specifically listed below will be left to the discretion of the Colonel and/or the director of the Department.

(d) Regardless of the severity of any action taken, all letters will be kept indefinitely and do not expire.

(e) Minor violation penalties include:

(i) 1st offense: Written warning;

(ii) 2nd offense: 30-day suspension;

(iii) 3rd offense: 45-day suspension;

(iv) 4th offense: 90-day suspension;

(v) 5th offense: 1-year suspension; and

(vi) 6th offense: Permanent removal.

(f) Minor violations may include the following or similar conduct:

(i) A tow carrier calling the WHP to request position on rotation;

- (ii) Vehicle or driver inspections not in vehicle;
 - (iii) Insurance lapse or improper coverage;
 - (iv) Tow truck driver arriving to scene without qualification on file;
 - (v) Giving an estimated time of arrival and not arriving at a reasonable time without informing the WHP Communications Center or on-scene trooper;
 - (vi) Rates not posted or available for customers within business;
 - (vii) Towing a vehicle to an unapproved storage facility;
 - (viii) Missing or improper equipment on a towing vehicle at a crash scene;
 - (ix) Charging to collect payment elsewhere if unable to collect payment option at the scene by a customer;
 - (x) Failure or refusal to answer a call or respond to scene;
 - (xi) Retrieving a vehicle on the highway without notifying the WHP;
 - (xii) Being unavailable for vehicle release during normal business hours then charging for storage;
 - (xiii) Responding to a call with an uninspected tow truck or with an out-of-service violation; or
 - (xiv) Making a false or unsubstantiated complaint against another tow carrier.
- (g) Major violation penalties include:
- (i) 1st offense: 45-day suspension;
 - (ii) 2nd offense: 90-day suspension;
 - (iii) 3rd offense: 1-year suspension; and
 - (iv) 4th offense: Permanent removal.
- (h) Major violations may include the following or similar conduct:
- (i) Not responding to a call when accepted and without notifying the WHP;
 - (ii) Wreck chasing/running the roads, solicitation of business, or arriving on a scene without being called;

- (iii) Tow truck driver arriving on scene while impaired by drugs or alcohol;
- (iv) No facility within divisional rotation area;
- (v) Failure to be independent of another tow and recovery company within the same divisional rotation area;
- (vi) Unauthorized or overcharged rates based on fee schedule provided to WHP;
- (vii) False or inaccurate information on a T/R-1 form (Rotational Application);
- (viii) Theft of property; or
- (ix) Releasing a vehicle WHP has put a hold on without prior approval.

(i) All suspensions or removals under these rules will be imposed by the Colonel as designated by the WYDOT Director.

(j) When a tow carrier is suspended, all owners and employees are suspended from operating on the WHP Non-Consensual rotations. The owner or employees of the suspended tow carrier are not allowed to add a new company on the rotation while the suspension is being served.

(k) If a tow carrier is suspended, that tow carrier cannot respond to any calls from the WHP rotation, whether it is using its own tow trucks or other tow carriers' tow trucks.

(l) If a tow carrier is permanently removed, the owner will also be permanently removed and will not be allowed to be associated with a tow carrier that operates on the rotational list.

(m) All tow carriers on the rotational list operating on a consensual basis in Wyoming are subject to all the disciplinary actions and the reconsideration process as outlined in this manual.

(n) A tow carrier will be removed prior to the reconsideration process if the act committed is egregious enough as to affect public safety.

Section 18. Request for Reconsideration Process.

(a) At the conclusion of an investigation, the tow carrier may receive a letter of reprimand outlining the violation(s).

(b) Written warnings will not be subject for reconsideration. All other suspensions in Section 17 are subject for reconsideration by the tow carrier upon written request to the TRPC.

(c) If a request for reconsideration is made by a tow carrier, no disciplinary action will take effect until such process is complete.

(d) If a tow carrier fails to make a request for reconsideration within 10 business days or fails to appear at a scheduled hearing, the original disciplinary action given by the Colonel will take effect immediately the following business day.

(e) The reconsideration process must be initiated within 10 business days of receipt of the original suspension letter.

(i) A tow carrier has the option to appear in person in front of the DRC. The tow carrier must make this request within 10 business days to the TRPC.

(ii) The informal hearing will be held within a timely manner.

(iii) The DRC will consider all factors and provide a recommendation to the Colonel. The tow carrier will be notified regarding the Colonel's decision on the suspension.

(iv) If a tow carrier does not request reconsideration, the suspension will go into effect on the eleventh business day after the letter was delivered.

(f) A tow carrier that has been removed from the rotational list may request reinstatement in writing at or near the end of the removal period. This request shall be sent to the TRPC.

(g) Permanent Removal:

(i) A tow carrier may request reconsideration, in writing, to the Colonel within 10 business days following the receipt of the original permanent removal notification letter. The Colonel may arrange a meeting with the tow carrier, the commercial carrier captain, and any other applicable parties involved. The Colonel will allow everyone involved to explain their position before rendering a decision. The decision should be made within a reasonable amount of time of the meeting. The Colonel will make the final decision and will notify the tow carrier with no further review available.

(h) Appeal Process:

(i) A tow carrier may file an appeal that will be sent directly to the Colonel. Practice and procedure for hearings before the Department shall be as provided in Chapter 3, General Section, of the Wyoming Department of Transportation Rules and Regulations.

(ii) A suspension will remain in effect unless the Office of Administrative Hearing renders a decision in favor of the tow carrier.

Section 19. Towing Advisory Board (TAB).

(a) The TAB shall act in an advisory capacity and make recommendations to WHP regarding the regulations that towing and recovery operators are to be regulated by, and such other duties as may be assigned by WHP.

(b) The Commercial Carrier Section will appoint TAB members. The TAB will be comprised of five to eight members with no more than two members from each of the following:

- (i) Tow carrier industry;
- (ii) Wyoming Trucking Association;
- (iii) Insurance industry; and
- (iv) WHP.

(c) A representative from the Wyoming Attorney General's Office and the WHP Communication Center may attend and be present but are not members of the TAB.

(d) TAB members will serve a 3-year term and may serve more than one term consecutively. There is no limit on the number of terms served by a TAB member.

(e) If terms are not staggered and expire at the same time, there will be a transitional period of one month where the new member and the existing member serve together. This will ensure the TAB is full at all times.

(f) The commercial carrier captain may at any point remove a member of the committee for any justifiable reason. A candidate will be selected from the list of applications on file and, once appointed, would finish out the remainder of the term.

(g) All applicable information regarding the TAB can be found on the WHP website.

(h) A majority vote will be used by TAB members to elect a chair who will preside over the minutes and the meeting agenda. A vice chairman will also be elected in case the chairman is unable to be present. Both the chairman and vice chairman shall serve in their capacity until their terms expire.

(i) The TAB shall meet one or two times per year depending on the amount of information that is necessary to discuss.

(i) These meetings shall take place in person, by video conference, or by teleconference.

(ii) The purpose of these meetings shall be to review and discuss the WHP's Voluntary Towing Operational Policies and Procedures and to share information that is pertinent

to the towing and recovery industry to assess if there are specific trends that need to be addressed.

(iii) All applicable information deriving from the meetings shall be sent to the TRPC.

(j) TAB members will access rotational applications, inspection forms, fee schedules, disputed invoices, and this manual.

Chapter 1

Motor Carriers

Section 1. Authority and Purpose.

These rules of practice and procedure are promulgated by authority of W.S. 24-2-105, W.S. 31-5-1701, W.S. 31-18-104(a)(vi), and W.S. 31-18-303 to supervise and regulate ~~the operation of motor carriers~~ motor carrier operations as set forth in the Wyoming Commercial Vehicle Act (W.S. 31-18-101 through W.S. 31-18-903).

Section 2. Definitions.

(a) Definitions as set forth in W.S. 31-18-101 shall apply insofar as all terms used in these ~~sections~~ rules and regulations are concerned. All terms used in these rules and regulations shall be construed as defined in Wyoming statutes and the rules and regulations of the Department. These definitions apply to *Wyoming Highway Patrol Policies and Procedures on Rotational Tow and Recovery Operations Manual* found in Appendix B of these rules and regulations, which contain additional definitions pertinent to that manual as well.

(b) “Department” means the Wyoming Department of Transportation (WYDOT).

~~(c) —“Interstate commerce” means trade, traffic, or transportation in the United States between a place in a state and a place outside of such a state (including a place outside of the United States); between two places in a state through another state or a place outside the United States; or between two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States (49 C.F.R. 390.5).~~

(c) —“Dispute resolution committee” means a committee serving as described in the *Wyoming Highway Patrol Policies and Procedures on Rotational Tow and Recovery Operations Manual* found in Appendix B of these rules and regulations.

(d) “Letter of authority” or “order” means a document issued under ~~this act by the Department, W.S. 31-18-101, et seq.,~~ by the Department, granting intrastate authority to a person to operate a motor vehicle as a motor carrier transporting persons or property.

~~(e) —“Noneconsensual tow” means transportation of a vehicle when a tow carrier is selected without the consent or knowledge of the vehicle’s owner, possessor, agent, insurer, lien holder, or any other person legally possessing or in charge of the vehicle. This movement includes transporting or towing the vehicle under lawful circumstances or necessity for the public interest, including removal from roadways to preserve public safety or following accidents, and for removal from public or private property as a result of abandonment or unauthorized parking by the property owner, agent, possessor, or other legal entity for the property owner.~~

(e) “Non-consensual tow” means a tow carrier’s transporting of a vehicle **without the vehicle’s owner, possessor, agent, insurer, lien holder, or any other person legally possessing or responsible for the vehicle specially requesting or providing a preference for a specific tow carrier. This movement includes transporting or towing the vehicle under lawful circumstances or necessity for the public interest, including removal from roadways to preserve public safety and from public or private property after abandonment or unauthorized parking by the person legally possessing or responsible for the vehicle. Wyoming Highway Patrol (WHP) rotational tows are considered non-consensual tows even when the vehicle owner or operator is present and consents to the non-consensual tow.**

(f) “Person” means individuals, associations of individuals, firms, partnerships, companies, corporations, limited liability corporations, their lessees, trustees, or receivers, appointed by any court whatsoever in the singular number as well as the plural.

~~(g) —“Recovery” means the retrieval of any vehicle that has been damaged or is inoperable or incapable of moving on its own power, generally speaking by using a commercial vehicle known as a recovery vehicle or tow truck (not to include Class “R” vehicles). Recovery means winching, hoisting, up-righting, removing, or otherwise relocating a vehicle when the vehicle is found in such a location, state, or position that it could not be removed from the location, state, or position under the use of its own power, even if it were in complete operating condition. The vehicle does not have to be damaged.~~

(g) “Recovery” means the winching, hoisting, up-righting, removing, or otherwise relocating of a vehicle when found in such a location, state, or position that it cannot be safely operated under its own power following the recovery process. If a vehicle is upright and on the roadway, towing or servicing it is not considered a recovery. Class “R” vehicles shall not perform recovery operations.

~~(h) “Tow” means to pull or haul pulling or hauling a vehicle with a recovery vehicle or tow truck tow and recovery vehicle to a place of safekeeping.~~

~~(i) —A “tow and recovery vehicle” (also called a “wrecker” or “recovery vehicle” or “tow truck”) means a truck altered or designed and equipped for and primarily used to move disabled, improperly parked, impounded, or otherwise indisposed motor vehicles. This may involve recovering a vehicle damaged in an accident, returning a vehicle to a drivable surface after a mishap or inclement weather, or towing or transporting a vehicle on a flatbed to a repair shop or other location.~~

(i) “Tow and recovery vehicle” (also called a “wrecker,” “recovery vehicle,” or “tow truck”) means a vehicle altered or designed and equipped for and primarily used to move disabled, improperly parked, impounded, or otherwise indisposed motor vehicles. Towing may involve recovering a vehicle damaged in a crash, returning a vehicle to a drivable surface after a mishap or inclement weather, or towing or transporting a vehicle on a flatbed to a repair shop or another location.

(j) “Tow truck and recovery carrier” (also called a “tow carrier” or “tow and recovery service”) means any person or entity engaged in the business of operating a wrecker, tow truck, or other vehicle equipped with a mechanical apparatus designed to hoist, pull, or move a vehicle that is wrecked, damaged, disabled, abandoned, or otherwise creating a safety hazard, and which meets all requirements of the local authorities in the respective jurisdiction and the requirements of the Department.

(k) “Winch out” means removing a vehicle from its position typically in a ditch or borrow pit or in mud, snow, water, or another substance that renders the vehicle inoperable. Following the winch out, the vehicle shall be safely drivable using its own power.

Section 3. Exemptions.

(a) The provisions of these rules **do not apply** to those exemptions as set forth in W.S. 31-18-103.

(b) Privately owned motor vehicles used in making nonprofit, educational, or religious tours of the state are exempt from obtaining operating authority.

Section 4. Communications, Addresses, and Notices.

~~(a) — All applications, written communications, and documents shall be addressed to the Wyoming Department of Transportation, Motor Vehicle Services Program, Regulatory Section, 5300 Bishop Boulevard, Cheyenne, Wyoming 82009-3340; telephone, (307)777-4850; fax, (307)777-4772; or email: mvs@wyo.gov. All applications, communications, and documents are deemed officially received only when delivered at the offices of the Motor Vehicle Services Program Regulatory Section.~~

(a) All applications, written communications, and documents shall be sent to the Department’s Regulatory Section of the Motor Vehicle Services Program by:

(i) Physical mail: Wyoming Department of Transportation, Motor Vehicle Services Program, Regulatory Section, 5300 Bishop Boulevard, Cheyenne, Wyoming 82009-3340;

(ii) Fax: (307)777-4772; or

(iii) Email: mvs@wyo.gov.

(b) All applications, communications, and documents are deemed officially received only when delivered to the Regulatory Section of the Motor Vehicle Services Program.

~~(b)(c)~~ Carriers shall report ~~changes of address for~~ address changes of their principal place of business to the Department immediately.

~~(e)(d)~~ All required notices ~~mailed~~ sent to a carrier shall be presumed received if ~~mailed~~ sent to the carrier’s last known address as shown on Department records.

Section 5. Carrier Records.

(a) All motor carriers holding operating authority in Wyoming shall keep and maintain adequate records in accordance with all applicable federal regulations.

(b) All records the Department requires shall be available for inspection or audit by any authorized WYDOT representative. The carrier shall, at its own expense, forward such records to the Department upon the request of an authorized representative.

Section 6. Towing and Recovery Vehicles.

~~(a) — Classes of tow and recovery vehicles. All tow and recovery vehicles shall be inspected by the Wyoming Highway Patrol and classified as follows:~~

~~(i) — **Class “A”** Tow and recovery vehicles designated as Class “A” shall service only vehicles that allow the tow vehicle to be operated within legal weight limits, but at no time exceeding 26,000 pounds gross combined vehicle weight (GCVW), and meet the specifications for Class “A” tow vehicles listed in Section 6, paragraph (b)(i) of this chapter.~~

~~(ii) — **Class “B”** Tow and recovery vehicles designated as Class “B” shall service only vehicles not exceeding 26,000 pounds gross vehicle weight (GVW) or gross combined vehicle weight (GCVW) and meet the specifications for Class “B” tow vehicles in Section 6, paragraph (b)(ii) of this chapter.~~

~~(iii) — **Class “C”** Tow and recovery vehicles designated as Class “C” shall service only vehicles exceeding 26,000 pounds gross vehicle weight (GVW) or gross combined vehicle weight (GCVW) and meet the specifications for Class “C” tow and recovery vehicles found in Section 6, paragraph (b)(iii) of this chapter.~~

~~(iv) — **Class “L”** Tow and recovery vehicles designated as Class “L” shall be considered “light duty” and typically used by dealerships and repair shops to retrieve customer’s vehicles for repair. Class “L” tow vehicles shall not be used for recovery operations. Class “L” tow vehicles shall meet the specifications in Section 6, paragraph (b)(iii) of this chapter and are not eligible for the Wyoming Highway Patrol Nonconsensual Tow and Recovery Rotation List.~~

~~(v) — Class “R” Tow and recovery vehicles meeting the specifications in Section 6, paragraph (b)(iv) of this chapter shall be referred to as “rollback.”~~

~~(b) — The following specifications shall be required of the individual tow vehicle classes. A boom, tow cradle, tow plate, or tow sling is not required if a rollback vehicle is used.~~

(a) All Tow and recovery vehicles shall meet all safety requirements as specified by federal and state regulations.

(b) All tow and recovery vehicles shall be inspected by the WHP and classified as follows:

(i) Class “A” tow and recovery vehicles shall have: the following:

(A) A minimum gross vehicle weight rating (GVWR) of ~~not less than~~ 10,000 pounds;

(B) ~~Individual~~ A minimum retracted boom capacity of ~~not less than~~ 8,000 pounds ~~when retracted~~, as rated by the manufacturer;

(C) An individual power take off (PTO) or a hydraulic power winch with a minimum rating of ~~not less than~~ 8,000 pounds, as rated by the manufacturer, with ~~at least a~~ minimum of 100 feet of 3/8-inch cable drum independent wire cable or synthetic rope equivalent on the drum;

(D) A manufactured ~~under lift~~ underlift with a ~~retracting~~ minimum lifting capacity of ~~not less than~~ 3,500 pounds when retracted and a minimum tow rating of 7,500 pounds, as rated by the manufacturer, with safety chains ~~or synthetic rope equivalent;~~ and

(E) Dual rear wheels.

~~(F) — Additional safety equipment as specified by federal and state regulations.~~

(ii) Class “B” tow and recovery vehicles shall have: the following:

(A) A towing vehicle chassis with a manufacturer’s capacity of 21,000 pounds or greater ~~gross vehicle weight rating (GVWR).~~ GVWR;

(B) ~~An individual~~ A minimum boom capacity of ~~not less than~~ 24,000 pounds when retracted, as rated by the manufacturer;

~~(C) — An individual power take off (PTO) or hydraulic power winch with a rating of not less than 12,000 pounds, as rated by the manufacturer with at least 150 feet of 7/16 inch cable.~~

(C) An individual PTO or a hydraulic power winch with a minimum rating of 12,000 pounds, as rated by the manufacturer, with a minimum of 150 feet of 7/16-inch independent wire cable or synthetic rope equivalent on the drum;

(D) A manufactured ~~wheel~~ underlift with a tow rating of ~~at least~~ 20,000 pounds and a minimum lift rating of ~~at least~~ 9,000 pounds when retracted; and

(E) Light and ~~air-brake~~ brake hookups; for towed vehicles when required for public safety.

~~(F) — Additional safety equipment as specified by federal and state regulations.~~

(iii) Class “C” tow and recovery vehicles shall have: the following:

(A) A minimum gross vehicle weight rating of at least GVWR of 35,000 pounds;

(B) A ~~double boom capacity of not less than 20,000 pounds each or a single boom with a~~ minimum winch capacity of not less than 40,000 pounds, combined, as rated by the manufacturer;

(C) A minimum winch capacity of ~~not less than 40,000 pounds~~ equipped with at least or double winch capacity of 20,000 pounds each with a minimum of 175 feet of 9/16-inch independent wire cable, or synthetic rope equivalent on the drum or drums;

(D) Auxiliary air brake lines and hoses connected to buses, tractors, trailers, or other towed vehicles when required as a matter of public safety;

(E) ~~Dual rear wheels and~~ A rear tandem axle drive or super single tires and wheels with tandem axle drive; and

(F) ~~An under lift~~ A minimum underlift tow rating of at least 26,000 pounds, and a minimum lift rating of at least 24,000 pounds when retracted (if so equipped); or a tow sling or tow bar lift with a minimum rating of at least 24,000 pounds.

(iv) Class “L” tow and recovery vehicles shall have: the following:

(A) A minimum ~~gross vehicle weight rating (GVWR)~~ GVWR not to exceed 15,000 of 18,000 pounds;

(B) ~~Individual~~ A minimum individual boom capacity of ~~not less than~~ 5,000 pounds, as rated by the manufacturer; and

(C) An individual PTO or a minimum hydraulic power winch capacity; ~~if equipped, of not less than~~ of 5,000 pounds, as rated by the manufacturer, with at least a minimum 75 feet of 3/8-inch cable or synthetic rope equivalent on the drum; ~~or~~ or a manufactured wheel-lift with a minimum retracting lifting capacity of ~~not less than~~ 3,500 pounds when retracted, ~~as rated by the manufacturer, with safety chains;~~ ~~or~~ or an “integrated boom” with a minimum lifting capacity of ~~not less than~~ 3,500 pounds, ~~as rated by the manufacture, with safety chains;~~

(D) ~~Single or dual rear wheels; and~~

(E) ~~Additional safety equipment as specified by federal and state regulations.~~

(v) Class “R” tow and recovery vehicles shall have: the following:

(A) ~~A minimum gross vehicle weight rating (GVWR)GVWR of not less than 12,00014,000 pounds or be originally designed and manufactured as a rollback;~~

(B) ~~Not less than an~~A minimum winch capacity of 8,000 pounds pound winch, as rated by the manufacturer, with ~~at least~~a minimum 50 feet of 3/8-inch cable or larger synthetic rope equivalent on the drum; and

(C) A bed or box capable of carrying a vehicle with no part of the carried vehicle in contact with the roadway and a minimum bed load rating of 10,000 pounds.

(D) ~~Additional safety equipment as specified by federal and state regulations.~~

(c) Lighting requirements.

(i) The following lighting shall be required and may be contained within a commercially manufactured light bar:

(A) ~~At least~~A minimum of one red light, or a combination of red and blue lights, visible from ~~all sides~~the front and rear during when in operation. These lights shall be used only as authorized by W.S. 31-5-102(a)(ii)(C) and W.S. 31-5-928(g).

(B) ~~At least~~A minimum of two high-intensity amber lights contained in a light bar or ~~display~~an revolving amber light, an amber strobe light, or ~~2~~two-way flashing amber lights ~~at least 4 inches in diameter on the vehicle~~. LED assemblies meeting the visibility requirements shall be allowed. These lights shall be clearly visible ~~at least 1,000 feet from the front and rear of the vehicle and be mounted as high as practical~~.

(ii) Towed vehicles shall display working tail lights, turn signals, and stop lights that shall be visible from the rear and controlled by the towing vehicle operator.

(d) ~~Additional equipment requirements.~~All tow and recovery vehicles shall comply with the following requirements:

(i) All safety equipment prescribed by the ~~U.S.~~United States Department of Transportation (USDOT) Safety Regulations within ~~C.F.R.~~the Code of Federal Regulations, Title 49, as adopted for commercial vehicles by WYDOT.

(ii) ~~Adequate~~Equipment capable of removing glass and other debris as prescribed in W.S. 31-5-117(b).

(iii) Safety chains or synthetic rope adequate for securing a vehicle or vehicles with the working load limit applicable for the class of tow and recovery vehicle used.

(iii)(iv) ~~A trailer~~Trailers used as a for recovery or removal operations ~~vehicle shall comply with the following:~~

(A) Not exceed the allowable loaded weight, as indicated by the manufacturer (~~gross vehicle weight rating~~)GVWR; and

(B) When pulled by a power unit in a recovery operation, ~~the~~have a power unit shall meetmeeting the lighting and safety requirements ~~outlined~~specified in subsection 5(c) and 5(d); and state or federal laws or regulations.

(C) ~~When the power unit is not being used in a recovery or removal operation, the emergency lighting as defined by W.S. 31-5-928(f) and W.S. 31-5-928(g) (flashing red, white, and blue lights) shall be covered.~~

(~~iv~~)(v) Winches, wheel lifts, cradles, tow plates, tow slips, and booms shall be built by a manufacturer of such equipment and shall not be “homemade.”

(~~v~~)(vi) Tow and recovery vehicles equipped with fixed booms and/or “true-hitch” are not authorized for recovery operations.

(~~vii~~) Class “C” fifth-wheel attachments, including but not limited to “Quickswap,” “Zacklift,” or detachable tow units, shall not be authorized for WHP non-consensual rotation tows.

(~~vi~~)(viii) Come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable.

(e) Restrictions.

(i) All tow and recovery vehicles operations shall ~~be operated in compliance~~comply with all traffic laws and regulations.

(ii) All persons engaged in towing and recovery within the ~~right-of-way of~~ federal-aid highway rights-of-way shall wear safety apparel meeting federal safety requirements for visibility.

(~~iii~~) All tow carriers operating in Wyoming shall notify the WHP Dispatch Communications Center before removing any vehicle on a state highway to verify that no other prior arrangements exist.

(~~iii~~)(iv) Motor carriers operating tow and recovery vehicles not meeting the requirements of these rules may be subject to Department disciplinary action ~~that may result~~resulting in, but is not limited to, ~~the revocation~~revoking or ~~cancellation~~canceling of the carrier’s operating authority.

(~~iv~~)(v) All tow and recovery vehicles are subject to all applicable federal and state commercial vehicle statutes and rules and regulations.

~~(v)~~(vi) The ~~Wyoming Highway Patrol~~WHP has statutory authority to spot check any tow and recovery vehicle for registration, fuel licensing, letter of operating authority, weight violations, ~~and/or~~ commercial vehicle~~/or~~ driver inspections.

~~(vi)~~(vii) If directed by state statutes, tow and recovery vehicles shall stop at Wyoming ports-of-entry.

~~(vii)~~(viii) No tow and recovery vehicle operator shall transport, nor allow to be transported, any passengers in any vehicle towed, recovered, or hauled by a ~~wrecker, recovery vehicle, or rollback~~tow and recovery vehicle. Passengers from these vehicles being transported in the tow and recovery vehicle shall be considered authorized.

~~(viii)~~(ix) No operator, employee, or individual used by a tow and recovery carrier in a ~~nonconsensual~~non-consensual tow and recovery operation shall be a member, or affiliate, of any federally identified criminal organization.

(f) ~~Nonconsensual~~Non-consensual towing and recovery.

(i) All ~~nonconsensual~~non-consensual towing and recovery practices shall be in accordance with ~~these rules and regulations of the Department~~ rules and regulations, all applicable state and federal laws and regulations, and the *Wyoming Highway Patrol's Non Consensual Towing and Recovery Procedures (incorporated by reference)*. *Wyoming Highway Patrol's Policies and Procedures on Rotational Tow and Recovery Operations Manual as set forth in Appendix B of this chapter.*

(ii) — Any code, standard, rule, or regulation incorporated by reference does not include any later amendments or editions of the incorporated matter beyond the applicable data identified in subsection (iii) of this section.

(iii) — The *Wyoming Highway Patrol Non Consensual Towing and Recovery Procedures* are incorporated by reference, effective January 15, 2016, and may be found at the following: www.whp.dot.state.wy.us These procedures may also be requested from the Wyoming Highway Patrol in writing at 5300 Bishop Boulevard, Cheyenne, Wyoming, 82009; by telephone at (307)777-4301; or by fax at (307)7774283.

(g) ~~Application for letter~~Letter of authority application.

(i) Before performing a tow and recovery service as either a private or contract motor carrier, ~~owner or lessee of the tow and recovery vehicle~~ owner or lessee shall apply for and receive ~~letters of private and contract authority~~ from WYDOT: the appropriate letter of private or contract authority, or both. The application shall be submitted on forms the Department furnishes.

(ii) After receiving the application, but before issuing the letter of authority, the Department shall ~~cause an inspection of~~ inspect the tow and recovery vehicle. A copy of the inspection shall be sent to the Regulatory Section to be placed in the carrier's file. To receive a

letter of authority, the tow and recovery vehicle shall meet the specifications for the class requested, and the owner or lessee shall certify that the information furnished is correct.

(h) Inspection.

(i) In addition to any roadside inspections ~~initiated by WHP;~~ initiates, as described in Section 6(e)(vi)(e)(f) of this rulechapter, the Department shall ~~cause an annual inspection between January 1 and June 30 to determine~~ annually inspect and determine the condition of the tow and recovery vehicle and its equipment: between January 1 and June 30. A copy of the inspection form shall be sent to the Regulatory Section to be placed in the carrier's file, and another copy shall be carried in the vehicle.

(ii) Tow and recovery vehicles not meeting rule requirements at the annual inspection or under inspections found in Section 6(e)(vi)(e)(5) of this ~~rulechapter~~ may have their letter of authority revoked and canceled.

(i) Special provisions.

(i) ~~In an emergency, peace officers are authorized to use any qualified or nonqualified equipment necessary.~~ An emergency situation may arise to include, but not be limited to, the weather, or the size or location of the crash where the peace officer on scene is authorized to use any qualified or nonqualified equipment necessary. A rotational list or a special request for a specific tow and recovery carrier may be superseded in these situations.

(ii) Peace officers, while performing their duties, shall not be responsible to pay for services performed by tow and recovery vehicle operators.

Section 7. Cancellation of Authority and Reapplication.

When WYDOT cancels an authority for ~~good cause or any violation of this rule,~~ or a motor carrier's failure to file prescribed evidence of insurance, the carrier shall file a new application for authority and pay the filing fee.

Section 8. Leasing Requirements.

(a) ~~(Qualifications of Leased Motor Vehicles.)~~ Leased Motor Vehicle Qualifications. All motor vehicles leased by a carrier shall be qualified by the lessee to operate under that carrier. When motor vehicles owned by one carrier holding operating authority from WYDOT are leased to another person, a copy of the lessee's current letter of authority shall be carried in the power unit. During the lease term, the lessee shall have complete control of the leased motor vehicle and shall be fully responsible for its operation, in accordance with applicable statutes, laws, and regulations—including the requirements of these rules and regulations concerning equipment safety and inspection and insurance coverage.

(b) ~~(Terms and Conditions of the Lease.)~~ Lease Terms and Conditions. All leases shall be in writing and signed by the parties to it. Leases shall specify the term ~~(the period of time the lease is to be in effect)~~ and the consideration to be paid by the lessee.

(i) During the entire lease term, a carrier shall at all times carry an original copy, a certified copy, or a photocopy of the lease in each vehicle covered by the lease so that it ~~may be~~ is available for inspection by Department representatives or other authorized persons.

(ii) The Department shall ~~at all times~~ always have the right to examine all motor vehicle equipment leases and approve or disapprove them.

(c) ~~(Regulation of Equipment Leasing.)~~ Equipment Leasing Regulation. When it appears that a carrier and shipper or any other combination of persons might use a lease arrangement to evade some aspect of regulation within WYDOT jurisdiction, ~~an investigation shall be instituted and~~ the Department shall institute an investigation and issue a formal complaint issued if necessary. If the Department determines that the lessor and lessee entered into a motor vehicle equipment lease to avoid regulation by Wyoming statutes or Department rules and regulations, WYDOT may request the Attorney General to institute proceedings in ~~the courts of the state~~ court, or take whatever action ~~it deems~~ is necessary and proper.

Section 9. Safety Regulations.

(a) The Department requires all motor carriers, as defined in W.S. 31-18-101, and carriers in interstate commerce, as defined in 49 ~~C.F.R.~~ CFR 390.5, to comply strictly with the following:

(i) All Wyoming laws pertaining to safe operation and such rules promulgated by ~~the Wyoming Department of Transportation~~ WYDOT;

(ii) The following USDOT hazardous materials regulations ~~of the United States Department of Transportation~~: 49 ~~C.F.R.~~ CFR Parts 105 through 107, 109, 110, 130, and 171 through 180; and

(iii) The following USDOT motor carrier safety regulations ~~of the United States Department of Transportation~~: 49 ~~C.F.R.~~ CFR Parts 40, 303, 325, 350, 355, 356, 360, and 365 through 399 for interstate transportation and as amended in ~~the a~~ Appendix A to these rules for intrastate transportation.

(b) WYDOT shall conduct audits and inspections as needed to enforce state and federal laws related to interstate and intrastate motor carrier operations. The Department's authorized employees or agents may enter, inspect, and examine any lands, buildings, and equipment of motor carriers subject to this section in order to inspect and copy any accounts, books, records, or documents to administer and enforce state and federal laws related to motor carrier operation provided:

(i) WYDOT's authorized employees or agents shall schedule an appointment with the motor carrier before entering, inspecting, or examining any facility or records of a motor carrier; but

(ii) If the Department's authorized employees or agents believe that a violation is involved and that a scheduled appointment would compromise the detection of the alleged violation, no appointment is necessary; and

(iii) A motor carrier shall submit its lands, buildings, and equipment for inspection and examination and shall submit accounts, books, records, and documents for inspection and copying in accordance with this section.

(c) When a motor carrier receives a compliance review, the motor carrier shall receive one of the following ratings:

(i) Satisfactory: The carrier may be required to submit a letter of compliance within a designated period ~~of time~~ to WYDOT. A follow-up compliance review may be conducted; or

(ii) Unsatisfactory: The carrier shall be required to submit a letter of compliance to the Department within 30 days. A follow-up compliance review shall be conducted. If the carrier fails to receive a satisfactory rating, the Department shall take further action against it for noncompliance.

(d) These regulations shall authorize placing a driver out-of-service for driving or working in excess of hours of service or any other conditions identified in the federal safety standards and found by WYDOT to contribute to unsafe operations. These regulations shall additionally authorize placing a vehicle out-of-service because of mechanical or operational dysfunction causing a vehicle to be unsafe under federal safety standards. These regulations shall abide by established federal safety standards.

Section 10. ~~Regulations for Bills of Lading~~ Regulations.

(a) For-hire motor carriers shall always use and carry in their motor vehicles at all times uniform bills of lading showing all property being transported. The carrier shall deliver copies to both the consignor and the consignee and retain a copy for Department inspection.

(b) Private motor carriers are not required to carry in their motor vehicles a bill of lading or other shipping document, except when transporting a hazardous material as required in 49 ~~C.F.R.~~ CFR 177.817 as adopted by the Department. The requirement for intrastate private carriers shall be governed by ~~a~~ Appendix A to these rules and regulations.

Section 11. Hearings and Appeals.

Except for internal procedures conducted by the dispute resolution committee, all
practice and procedure for hearings before the Department shall be as provided in Chapter 3,
General Section, of the Wyoming Department of Transportation Rules and Regulations.

Appendix A to Chapter 1, Motor Carriers

This appendix consists of Wyoming-specific cross-references, changes, omissions, and additions to 49 ~~C.F.R.~~CFR Parts 40, 303, 325, 350, 355, 356, 360, and 365-399.

The cross-references set forth below are of general application throughout the rules reproduced in this appendix and shall be applied except when the context of the rule clearly requires otherwise.

- (a) References to “state” shall mean the State of Wyoming.
- (b) References to “Interstate” shall mean “Intrastate.”
- (c) References to “farms” and “farmers” shall include “ranches” and “ranchers.”
- (d) References to “Federal” shall mean “Wyoming.”
- (e) References to such federal persons and entities such as “Secretary,” “Federal Highway Administrator” or “Administration,” “Regional Director,” “District Director,” and other similar references shall mean ~~the Wyoming Department of Transportation (WYDOT)~~, its employees and duly designated agents, including the ~~Wyoming Highway Patrol~~WHP, enforcing these rules pursuant to W.S. 31-18-701(b). WYDOT, ~~in order~~ to promote efficiency in government and to avoid duplication of skills, personnel, and effort, may designate other personnel to provide technical expertise and assistance to the Department as the need arises.

Section 390.5 Definitions. All definitions set forth in W.S. 31-18-101 are incorporated herein by this reference. In addition, in this appendix and for the purposes of these rules:

“Agricultural growing season” means January 1 to December 31 of any calendar year.

“Air-mile” means an international nautical mile of approximately 6,076 feet measured in a straight line and not on an over-the-road basis.

“Commercial vehicle” means as defined in W.S. 31-18-~~101(a)(iii)~~.

Section 390.21(b)(2) is changed to read:

The motor carrier identification number, if issued by the Federal Highway Administration, shall be preceded by the letters “USDOT.” When issued for Wyoming intrastate carriers, the number shall be preceded by “USDOT” and followed by the suffix “WY,” as in the following example: USDOT 123456 WY.

Section 390.23.

~~The Wyoming Department of Transportation~~WYDOT directs any motor carrier seeking relief from Section 395.3(b) to contact WHP in writing to request such relief.

~~The Wyoming Department of Transportation~~ WYDOT shall recognize emergency relief exemptions as declared by the President of the United States, the Governor of a state, or authorized designees or representatives having authority to declare emergencies, when such emergencies are declared as prescribed in federal regulations.

Section 391.11(b)(1) is changed to read:

- (1) is at least 18 years old;

Section 395.1(e) is changed to read:

(e) 150 air-mile radius driver. A driver is exempt from the requirements of §395.8 if:

- (1) The driver operates within a 150 air-mile radius of the normal work reporting location;

Appendix B to Chapter 1, Motor Carriers

This appendix contains the Wyoming Highway Patrol Policies and Procedures on Rotational Tow and Recovery Operational Manual.

Section 1. Authority and Purpose of Manual.

(a) Wyoming Department of Transportation (WYDOT) has the authority to provide rules and regulations for the safe and efficient removal of vehicles from the highways when the owner is not present under W.S. 31-5-1701. The Wyoming Highway Patrol (WHP) has been delegated this authority to assure procedures are in place for the WHP's voluntary non-consensual rotational list.

(b) The purpose of this manual is to state the policies, procedures, and standards for members of WHP and for towing and recovery carriers with regard to towing service standards. Also, this manual serves to further ensure the safe and efficient removal, storage, and safekeeping of any and all vehicles being towed by and placed into custody of such towing companies.

Section 2. Definitions.

(a) "Abandoned motor vehicle rotational list" means a specific list of approved tow and recovery companies called to remove abandoned vehicles maintained by WHP.

(b) "DRC" means the Dispute Resolution Committee.

(c) "Call-out area" means a rotational call-out area is a unique geographical area defined by boundaries determined by the Wyoming Highway Patrol Division Map. In some instances, a division may be divided into multiple lists. These areas shall be based upon, but not limited to, geographical issues and response times. In some instances, call-out areas may cross divisional boundaries.

(d) "Colonel" means the agency administrator for the WHP.

(e) "Department" means the Wyoming Department of Transportation.

(f) "Executive command staff" means WHP rank consisting of colonel, lieutenant colonel, field operations commander (major) and support services commander (major).

(g) "GCVW" means Gross Combined Vehicle Weight.

(h) "GVW" means Gross Vehicle Weight.

(i) “GVWR” means Gross Vehicle Weight Rating.

(j) “Level 1 safety inspection” means a North American Standard inspection that includes examination of or for driver’s licenses; medical examiner’s certificates and Skill Performance Evaluation certificates (if applicable); alcohol and drugs; driver’s records of duty status as required; hours of service; seatbelts; vehicle inspection report(s) (if applicable); brake systems; coupling devices; exhaust systems; frames; fuel systems; lighting devices (headlamps, tail lamps, stop lamps, turn signals, and lamps/flags on projecting loads); securement of cargo; steering mechanisms; suspensions; tires; van and open-top trailer bodies; wheels, rims, and hubs; windshield wipers; emergency exits and/or electrical cables and systems in engine and battery compartments (buses); passenger vans or other passenger carrying vehicles, and Hazardous Material/Dangerous Good (HM/DG) requirements as applicable. HM/DG required inspection items will be inspected by certified HM/DG inspectors.

(k) “Level 5 safety inspection” means a vehicle-only inspection that includes each of the vehicle inspection items specified in Section 2, paragraph (j) without a driver being present.

(l) “Liability insurance coverage” includes:

(i) “Cargo coverage” which provides protection against all risks of physical loss or damage to freight from any external cause.

(ii) “Garage keeper’s liability” which protects against liability for damage to vehicles in a garage keeper’s care, custody, or control.

(iii) “On-hook coverage” which usually pays to repair or replace a vehicle that the towing company did not own if it is damaged by a collision, fire, theft, explosion, or vandalism while it is being towed or hauled.

(iv) “Vehicle liability” which pays for damages due to bodily injury and property damage to others for which the towing company is responsible.

(m) “Manual” means the *Wyoming Highway Patrol Rotational Tow and Recovery Policies and Procedures Operational Manual*.

(n) “Rotational list” means a list of approved towing companies maintained by the WHP on a rotating basis to tow vehicles.

(o) “TAB” means the Towing Advisory Board.

(p) “Tow carrier” means any person, firm, or corporation engaged in the business of offering towing and recovery services by use of a tow truck and storage facility.

(q) “Tow and recovery program coordinator (TRPC)” means the Primary administrator of the rotational list whose primary duties include, but are not limited to, reviewing and approving applications for acceptance on the rotational list, inspecting towing companies’ vehicles and equipment, responding to questions concerning the rotational list, and participating on the TAB and the DRC. In the event the TRPC is not available, the above responsibilities shall be the duty of the division lieutenant or a designee.

(r) “WHP” means the Wyoming Highway Patrol.

(s) “WHP website” means <http://www.whp.dot.state.wy.us/home.html>.

Section 3. Statement of Intent.

(a) It shall be the policy of WHP to create a rotational list of tow carriers who meet or exceed standards prescribed in this manual under the rules and regulations of WYDOT. The TRPC shall have the authority and responsibility to oversee all completed inspections on each tow carrier business and equipment and also to make sure each driver is qualified before authorization is given to be placed on the rotational list. Only vehicles passing the tow truck inspection will be placed on the rotational list. Absent a vehicle owner’s request for a specific tow carrier, only those tow carriers whose equipment, drivers, procedures, and services conform to the following procedures and standards will be utilized by the WHP. These measures ensure the following for the citizens, who utilize the highways in the State of Wyoming:

(i) That each and every tow carrier is reputable, reliable, and possesses adequate equipment and qualified employees;

(ii) That each tow carrier is properly licensed and insured; and

(iii) That each tow carrier charges a fair and reasonable rate for services rendered.

(b) The WHP shall allow any qualified tow carrier to submit an application for consideration to participate on the rotational list, as determined by this manual. By submitting an application to be placed on the rotational list, each tow carrier agrees and understands that the policies, procedures, and standards within this manual shall strictly govern its initial and continuing position on the rotational list.

(c) The rotational list is strictly voluntary, and a tow carrier may remove its name at any time by contacting the TRPC or respective division lieutenant.

(d) Noncompliance by tow carriers, owners, employees or towing vehicles may result in the immediate removal from the rotational list by the TRPC until compliance is met and verified.

(e) The WHP executive command staff shall be the final authority on all policies, procedures, and standards governed by this manual.

(f) The efficient and safe removal of vehicles from the highways throughout the state when such removal becomes necessary is an important concern of WHP.

(g) It is equally important to provide this service in a fair and reasonable fashion to the motoring public, especially those who are unable to actively remove their vehicles and property from the state highway system after an incident.

(h) Guidelines are established in order to ensure certain standards are maintained by tow carriers on the rotational list and those tow carriers who meet those standards receive reasonable opportunity to provide such service.

(i) These established guidelines ensure the motoring public is treated equitably, fairly, and consistently by tow and recovery companies who are working in concert with the WHP to keep the highway system clear of disabled vehicles.

(j) As a service to the motoring public, the WHP will maintain a current list of tow carriers in each general division area on a rotational basis. The TRPC will supply the WHP Communications Center with an accurate and updated rotational list for each respective division.

(k) It is crucial that the relationship between the WHP and tow carriers on the rotational list is founded upon a common goal of safely and efficiently clearing the highway system of disabled vehicles. Public trust must be maintained while this goal is met.

(l) The working relationship that exists between the WHP and tow carriers can create the impression that tow carriers are part of the WHP. Tow carriers are not a part of the WHP. Tow carriers who work with the WHP, and who are included on the rotational list, shall not conduct business in any fashion that discredits or adversely affects the WHP.

Section 4. Application Process.

(a) The annual inspection process runs from January 1 to June 1 annually, which will be conducted by the division lieutenant. It is the responsibility of each tow carrier to provide accurate forms by email, mail, fax, or hand delivery to the TRPC or Level 1 inspector prior to the beginning of the inspection period.

(b) Each year thereafter, tow carriers desiring to remain on the rotational list shall resubmit ALL forms in the same manner listed below in Section 4, paragraph (i). The forms shall be updated to reflect current information as it exists at the time of the annual inspection.

(c) A tow carrier shall be in business for a minimum of one year within the rotational area requested prior to being eligible to operate on the rotational list. A tow carrier currently operating on the rotational list that is sold would be eligible to apply for a position within that specific call-out area if in compliance with all applicable requirements.

(d) No tow carrier will be considered for a position on the small rotational list if their sole equipment listed on their rotation application is a rollback wrecker. A small wrecker, Class A, is required.

(e) Tow carriers shall have a minimum of two Class C wreckers to be considered for the large rotation. The division lieutenant and the TRPC may grant exceptions based on geographical area, the average number of large rotational calls, and the number of tow recovery carriers who operate on that specific large rotation.

(f) Tow carriers shall provide proof of their current Wyoming operating authority for inspection. Information on obtaining Wyoming operating authority can be found on the WHP website.

(g) Tow carriers shall provide a copy of the business's Vehicle Storage and Disposal Facility License. This can be provided on the T/R-5 form.

(h) Tow carriers shall read, review, and comply with this manual, and the WYDOT Rules and Regulations, Motor Carrier Program Rules.

(i) Tow carriers will provide the following documents prior to the start of the business inspection with the required information completed. These forms are available on the WHP website.

- (i) Tow Truck Fact Sheet (T/R-1);
- (ii) Driver Information (T/R-2);
- (iii) Equipment Information (T/R-3);
- (iv) Tow Truck Inspection (T/R-4);
- (v) Tow Truck Business Inspection (T/R-5);
- (vi) Rotational List Signed Guidelines (T/R-6); and
- (vii) Rotational Fee Schedule (T/R-7).

(j) Failure to provide true and accurate information on all forms may result in disciplinary action or denial from operating on the rotational list.

(k) Tow trucks that are required to undergo a Commercial Vehicle Safety Alliance (CVSA) level 1 or 5, may have a decal affixed by a certified Level 1 inspector. Proper disbursement, logging, and accountability of these decals is based on the CVSA requirements.

(l) Following the CVSA safety inspection, the equipment standards must be met as outlined on the T/R-4 form. Upon successful completion of the T/R-4 form, an approved WHP decal will be affixed either above or below the driver's side door handle indicating a successful inspection. The decal will indicate the date of the inspection, class, and vehicle identification number (VIN) of the tow truck.

(m) If a tow truck displays a valid CVSA decal that was issued within ninety (90) days, another CVSA inspection is not required. The inspection number shall be put on the T/R-4 form.

(n) A WHP member will conduct a business inspection using the T/R-5 form upon initial acceptance on the rotational list and upon any changes to the business address.

(o) All paperwork will be forwarded to the TRPC for final inspection for accuracy and consistency. If discrepancies are found in the paperwork, the TRPC will make the proper notifications to ensure the paperwork is rectified.

(p) All completed inspection paperwork will be placed in the company file in the commercial carrier section. Copies of successful vehicle inspections will be sent to the Regulatory Section and to the Compliance and Investigation Section of the Department.

(q) Each T/R-1 will be sent to the WHP Communications Center in Cheyenne upon satisfactory completion to ensure the tow carrier's position on the rotational list.

(r) A rotational fee schedule T/R-7 submitted by a tow carrier shall not be used until approval documentation has been given to the tow carrier by the TRPC.

Section 5. Rates.

(a) Tow carriers shall furnish the WHP with a current and accurate list of charges for various services and agree to present revisions thereof upon any change of rates prior to the implementation of the rate change. The provided T/R-7 form shall be used and be in compliance with Section 5 of this manual. Fees charged shall be fair and reasonable as compared to the industry.

(b) Fees shall not be excessive and shall match similar invoices for calls originated outside of the rotational list.

(i) Fairness is based on other rates and charges rendered for similar services.

(ii) Reasonableness is based on accepted fee schedules, posted rates, possible quotes, invoices, and other documentation of rates.

(c) No additional rate of charge may be applied to any incident simply because the call was initiated from the rotational list. Examples of such prohibited charges would include law enforcement call-out or emergency call-out (when non-rotational calls would not also be subject to the emergency call-out fee).

(d) A call during normal business hours is not considered an emergency call-out.

(e) No reference, actual or implied, to the rate of charge being related to the WHP rotational list or to law enforcement call-outs in general shall be made verbally or in written form when billing or negotiating payment for services, or at any other time during which the tow and recovery carrier or its representative is dealing with the public.

(f) Services not actually performed by a tow and recovery carrier shall not be charged if the services were provided by another entity such as WYDOT, law enforcement, fire department, or others. Services rendered by another entity may include, but not be limited to, traffic control and hazardous material clean up.

(g) No reference, actual or implied, shall be made that gives the impression that the WHP receives any financial gain, or maintains any business relationship with, the tow and recovery carrier providing the service.

(h) It shall be a violation for any tow carrier to charge an excessive towing, recovery, storage, or other services rate.

(i) Utilizing a minimum weight for any class of vehicle or combination of vehicles is not accurate. A certified weight slip from a port-of-entry, WYDOT scale, bill of lading reflecting current cargo, or other document providing an actual weight of the vehicle or combination of vehicles shall be utilized if the actual weight is unknown from the driver or company. A vehicle or combination of vehicles without cargo, shall be charged for its actual weight and not using the GVWR or the GCVWR if provided on the T/R-7 form by the carrier.

(j) Administrative fees shall be fair and reasonable when applied to any type of call.

(k) Storage fees shall be in accordance with the fee schedule provided to the WHP by the tow and recovery carrier and in accordance with Section 11 of this manual.

(l) Tow carriers should have the ability to accept all forms of payment roadside to include credit card, debit card, COMcheck, and cash. If a tow carrier is unable to accept any of these payment options roadside, no additional rate of charge shall be applied to the customer when one of these payment options is requested by the customer roadside. No additional rates shall be applied to obtain payment elsewhere if not collected on scene.

(m) A tow carrier shall have the ability to accept multiple payment options either by credit card, debit card, COMcheck, or cash at the business facility. If a payment option or vehicle availability to a customer is unavailable, no additional rate of charge shall be applied once the services are completed and a request has been made by the customer.

(n) When called from the rotational list, a tow carrier shall include a minimum of the following on each invoice or on an additional sheet of paper:

(i) The name, address, and telephone number of the tow carrier and the name of the individual or entity who requested the service;

(ii) The date and time that the request for service was received, time of arrival, and location;

(iii) The place to which the towed vehicle was transported and the time that it arrived there;

(iv) Mileage to the scene (if applicable) and mileage from the scene to the storage facility;

(v) The date and time the vehicle was placed into an inside or outside storage facility and the date and time it was released (if applicable);

(vi) An itemization of the charges for towing, recovery, storage, and other services rendered;

(vii) The make, model, year, VIN, and, if available, the license plate for the vehicle being towed; and

(viii) A notation that, if a customer has questions or concerns regarding charges, a complaint may be filed using the WHP website.

Section 6. Tow Truck Requirements.

(a) No tow truck may be stationed and/or used in more than one rotational area.

(b) No tow truck may be used, regardless of the situation, by more than one tow carrier without first requesting permission from the WHP prior to each call.

(c) Every tow truck shall be presentable, have a professional appearance, and must be in compliance with all applicable state and federal requirements.

(d) The place of the tow truck inspection must be either asphalt or concrete to allow for movement of the inspector under the tow truck.

(e) The Department hereby incorporates by reference the following uniform regulations:

(i) CVSA 49 CFR Chapter 3, Subchapter B, Appendix G, as the standard for safety equipment (Level 1 or 5) on tow and recovery vehicles with a minimum GVWR of 26,001 pounds (intrastate) or a minimum GVWR of 10,001 pounds (interstate). Adopted by the Department and effective as of May 9, 2022, found electronically at <https://www.govinfo.gov/app/details/CFR-2011-title49-vol5/CFR-2011-title49-vol5-subtitleB-chapIII-subchapB-appG/context>;

(ii) The Department has determined that incorporation of the full text in these rules would be cumbersome or inefficient given the length or nature of the regulations;

(iii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (e)(i) of this section; and

(iv) The incorporated regulations are maintained at WYDOT, 3001 Bishop Boulevard, Cheyenne, Wyoming and are available for the public inspection and copying, at no cost to the public, at the same location.

(f) If the CVSA inspection identifies a defect of any type, the operator is entitled to request a second inspection by another inspector.

(i) If the inspection identifies a non-safety-related defect or deficiency, the operator will be informed of the defect or deficiency and requested to correct it. Failure to correct the defect or deficiency within thirty (30) days of the notice will result in suspension from the WHP rotational towing system until the defect or deficiency is corrected.

(ii) If the inspection identifies a safety-related defect or deficiency, the tow truck will be immediately taken out of service. The tow truck cannot be used until the re-inspection confirms that the defect or deficiency has been corrected.

(iii) If either the inspection form or certification decal is lost, removed, rendered unreadable, or destroyed, the operator must immediately notify the TRPC. The inspection process will be verified before a new certification decal is given.

(g) Should a tow truck respond to a WHP initiated service call with an out-of-service violation, the towing company shall not be permitted to perform services, and the towing vehicle shall be placed out of service. The tow carrier will be moved to the bottom of the rotational list and not be compensated for the call. The next scheduled tow carrier on the rotational list shall be contacted by the WHP Communications Center.

(h) A tow carrier on the rotational list that would like to introduce a new truck to the rotation must first receive a safety inspection. The T/R-1, T/R-3, and T/R-4 forms must also be completed.

(i) In the event a non-approved tow truck arrives at a scene, that tow carrier will be denied the call and moved to the bottom of the rotational list receiving no compensation for the response. The next tow carrier on the rotational list will be called.

(j) A tow truck not meeting the requirements as set forth within this manual will not be allowed to respond to calls originating from the WHP rotational system.

(k) A copy of the most recent T/R-2 and T/R-4 shall be kept in the corresponding tow truck and shall be shown at the request of any WHP member.

(l) All tow trucks must operate in compliance with, and are subject to, all applicable federal and state commercial vehicle statutes, traffic laws, and rules and regulations.

(m) The WHP has statutory authority to spot check any tow truck for registration, fuel licensing, letter of operating authority, weight violations, and commercial vehicle/driver inspections.

(n) If required by state statutes, tow trucks shall stop at Wyoming ports-of-entry.

Section 7. Required Equipment for Tow Trucks.

(a) Equipment requirements must be in accordance with Chapter 1, Section 6(b)(i) through 6(d)(viii).

(b) Sirens on towing vehicles are prohibited per W.S. 31-5-952(d).

(c) The tow carrier's name, city, phone number, and USDOT number must be visible and legible from 50 feet. It shall be painted or permanently affixed in a conspicuous place on both sides of the towing vehicle. Magnetic or stick-on signs will not be permitted.

(d) Additional Required Equipment:

(i) Minimum of three flags, triangles, or other approved warning devices;

(ii) Minimum of one, 5-pound dry chemical fire extinguisher or equivalent;

(iii) Clearance lights on the front of the vehicle;

(iv) Extension cord or other device to illuminate stop/turn/taillights on the towed

unit;

(v) One shovel and one broom;

(vi) Two-way radio, mobile, or cellular phone;

(vii) Steering wheel clamp or equivalent;

(viii) Other equipment as outlined on the T/R-4 form; and

(ix) Every tow truck shall have a manufacturer data plate affixed or a wrecker manual outlining the safety ratings.

Section 8. Driver Requirements.

(a) The TRPC will maintain a copy of all required training in the tow company's file. All applicable training can be found on the WHP web site.

(b) Effective January 1, 2023, all tow truck drivers shall provide certification they have successfully completed Traffic Incident Management (TIM) training in accordance with the Federal Highway Administration. It is the responsibility of the tow carrier to ensure each driver has attended this training prior to responding to any calls on the WHP rotational list.

(i) TIM recertification training will be required every three years, and the certificate of completion shall be provided to the TRPC.

(c) All towing carrier drivers shall have **one** of the following requirements prior to being eligible for the rotational list and responding to any rotational call:

(i) Documentation certifying the tow truck operator has a minimum of one year for light duty or;

(ii) Three years for heavy duty experience or;

(iii) Completion of a nationally accredited program. These can be found on the WHP website or their respective website:

(A) Towing and Recovery Associations of America, online based.

(B) Wreckmaster, which provides classroom, hands on, and online training; or

(iv) The TRPC may determine training that is not specifically listed under paragraph (c) of this section is acceptable in accordance with Occupational Safety and Health Administration requirements. The tow truck driver is required to provide applicable information regarding this training to the TRPC prior to a decision being made. This includes, but is not limited to, course outline, training documents, training hours and completion certificate.

(d) All tow carrier drivers shall have a good working knowledge of the equipment and tow trucks they operate in order to successfully complete all required tasks.

(e) All employees on a scene shall wear a high visibility traffic vest, shirt, or coat in accordance with American National Standards Institute and federal CFR, Title 23, Highways,

Chapter 1, Federal Highway Administration, Department of Transportation, Part 634, Worker Visibility.

(f) All personnel, while performing their duties on a scene, shall wear acceptable and appropriate clothing to perform the necessary tasks, and the clothing shall identify the company.

(g) If an operator responds to a WHP initiated call and violates this section, they would be required to leave the scene, subsequently lose that rotational call-out, and be placed on the bottom of the rotational list.

Section 9. Insurance.

(a) Each tow carrier assumes the liability for personal injury or property damage resulting from a tow carrier employee's intentional or negligent act(s) from the time contact is made with any vehicle to be towed. Each tow carrier assumes full liability for all items in the towed vehicle.

(b) Each tow carrier shall maintain insurance policies for the minimum amounts set forth in this section. The insurance policies shall be in the name of the tow carrier and shall include coverage for towing and storage. The policies shall be valid for at least twelve (12) months.

(c) A certificate of insurance shall be filed with the WHP before a tow carrier is placed on the rotational list. Certificates of insurance must be itemized to indicate amounts of vehicle liability coverage, garage keeper's liability coverage, on-hook coverage, and cargo coverage. The policies shall also disclose all towing vehicles covered. Nothing shall preclude a tow carrier from obtaining coverage in excess of these amounts.

(d) Liability coverage must be equal to or greater than the minimum amounts below. Insurance coverage may be provided in a single policy or separate split policies. Regardless of the type of policy or policies, the total amount of coverage must equal those amounts listed below—per incident, per the requirements under Wyoming operating authority.

(i) Minimum vehicle liability coverage:

(A) Classes A, B, C, and R: \$700,000

(ii) Minimum on-hook and cargo coverage:

(A) Class A and R: \$75,000

(B) Class B: \$150,000

(C) Class C: \$200,000

(iii) Minimum garage keeper's liability coverage:

(A) Class A and R: \$75,000

(B) Class B: \$150,000

(C) Class C: \$200,000

(e) Exception: An Umbrella policy is acceptable as long as it covers the above listed categories (vehicle liability, garage keeper's liability, on-hook, and cargo liability) and the amount of coverage is the same or greater than the total of each category's coverage added together.

Section 10. Business Requirements.

(a) The TRPC or the division lieutenant will assign each tow carrier to a specific rotational area. Each Tow Carrier will only be allowed to respond to rotational calls within their designated area unless given prior authorization by a member of the WHP.

(b) Any changes to a division rotational boundary for which a tow carrier resides and works will rest upon the division lieutenant who oversees that division along with the TRPC.

(i) If the request is granted, notification shall be made to the following:

(A) WHP Communication Center,

(B) Division lieutenant, or

(C) TRPC.

(c) A tow carrier shall be listed only once on each rotational list and only in the name under which it is qualified to conduct business in this state.

(d) The WHP prohibits a tow carrier conducting business at one location from receiving multiple listings on that divisional rotational list by using a different or fictitious name or address.

(e) It is prohibited for one or more tow carriers, owned in whole or in part by the same individual, partnership, or Parent Corporation to be qualified to participate on the same rotational call out area.

(f) No tow carrier owner shall have a vested interest in another tow carrier within the same rotational area. Only one tow carrier is allowed per rotational area if owned by the same individual or corporation.

(g) Each tow carrier shall be completely independent of any other tow carrier within that same rotational area. For the purpose of these guidelines, a tow and recovery company is defined by a unique operating authority, phone number(s) for rotational call-out purposes, an actual physical business address, business facility from any another tow and recovery company, mailing address, business license, insurance policy, storage facility, EIN filing number, and own towing equipment.

(h) A tow carrier shall not rely upon any other tow carrier for assistance with normal day-to-day functions.

(i) An actual business office shall be located at the physical address that is used for the business facility on the application forms.

(j) Each tow carrier shall be domiciled in Wyoming.

(k) In counties where there are multiple divisional boundaries, a tow carrier may be listed in each division if the towing company has distinctly separate storage facilities within the division and separate and distinct equipment and business offices located within each division. The storage facilities and equipment shall meet the standards set forth in this manual.

(l) A tow carrier shall display a plainly visible sign with the carrier's name and phone number outside the business facility for customers to see. The sign shall be plainly visible and legible from the street and have a professional appearance.

(m) Tow carriers who are requesting a position on the rotational list shall not operate on a seasonal or part time fashion, and shall be available on a year round basis.

(n) Towed vehicles shall be accessible to customers and WHP members between the hours of 8 a.m. and 5 p.m. Monday through Friday, excluding state recognized holidays. In the event a tow carrier is unable to release a vehicle during the hours specified above when a reasonable attempt has been made by the customer, storage fees shall not be assessed after that attempt.

(o) If the current tow and storage rates are not posted within the business facility, the company must be able to provide the current rates when requested by a customer.

(p) A chronological record of services rendered as a result of calls initiated by the WHP rotation shall be maintained for a minimum of two years. This will assist in ensuring all disputed invoices are in proper compliance with the fee schedule provided to the WHP by the tow and recovery carrier.

(q) Tow carriers must own or lease the towing equipment in the performance of its towing services, and the equipment must be registered to the company. The tow carrier must notify the TRPC if: A tow truck is sold. The seller must remove the tow truck's certification decal from the door, and it shall be destroyed. The tow truck is not qualified to be used on rotational calls until it has passed an inspection conducted by the WHP.

(r) Tow carriers must employ drivers who possess a valid Wyoming driver's license pursuant to W.S. 31-7-106, unless exempt by W.S. 31-7-107.

(s) All drivers who operate tow trucks with a GVWR of 26,001 pounds (intrastate) or over 10,000 pounds (interstate) as set forth in W.S. 31-7-304, shall possess a current commercial driver's license for the class of vehicle(s) operated.

(t) Prior to the time of the initial application, governed by the provisions of this manual, criminal history background checks on all employees who will have access to any towed vehicle shall be furnished to the WHP. This process will be required every three years after the initial criminal history background check is completed. However, any time a new driver is hired or re-hired, their fingerprints shall be submitted in accordance with the below procedures:

(i) Obtain instructions on the WHP website prior to filling out the blue applicant fingerprint card in order for proper return and acceptance; and

(ii) Contact a local law enforcement agency to schedule a time for a criminal history background check to be completed. Make sure a blue fingerprint card is available at the local law enforcement agency for the scheduled time. A charge may be applied by some agencies to conduct the fingerprints.

(u) Send the fingerprint card along with the required fee using a certified check or money order to the Division of Criminal Investigation. The address can be obtained on the WHP website.

(v) The individual who had the criminal history background check completed shall provide the results to the TRPC, who will place the results in the towing company's file for each driver and anyone who has access to stored vehicles.

(w) All criminal history background checks shall be completed and furnished to the WHP prior to a driver being accepted on the T/R-2 form.

(x) The TRPC shall maintain all criminal history background checks in the towing company's file. All files are to be placed in a secure area that is not accessible to the public, pursuant to National Crime Information Center regulations.

(y) If an employee is found to have a driver's license that is revoked, suspended, or canceled, the TRPC shall notify the tow carrier in writing by email, mail, fax, or hand delivery. The tow carrier shall not permit such an employee to drive any towing vehicle for any reason until that employee has satisfied all legal reinstatement requirements for the license. The tow carrier owner and employee may both be subject to criminal charges if the employee is allowed to drive under these circumstances.

(z) The tow carrier shall maintain an up-to-date driver file for each driver and ensure that each driver's license remains valid.

(aa) If a driver is employed by more than one tow carrier, each tow carrier shall maintain an independent and separate driver file on the driver. In these cases, the driver is only required to submit the results of a criminal history background check one time.

(bb) Tow carriers must notify the TRPC by email, mail, fax, or hand delivery (in writing), of any of the following within 5 business days:

(i) The tow carrier shall submit all new T/R forms to the TRPC when there is a change in ownership. Failure to comply will result in a removal from the rotation;

(ii) The tow carrier shall submit an updated T/R-2 form to the TRPC to reflect any changes to tow truck drivers; or

(iii) Any actions committed by a driver, which would cause their driver's license to be suspended, revoked, or canceled.

(cc) Criminal Convictions and Charges:

(i) A tow carrier owner or driver will not be allowed to participate on the rotational list if convicted of one of the following crimes: burglary, robbery, murder, manslaughter, assault, arson, domestic violence, child abuse, sex crimes, larceny, property crimes, fraud, forgery/counterfeit, eluding, human trafficking, driving while under the influence, controlled substance, or other crimes involving violence, theft, or dishonesty, within the past 10 years.

(ii) If a criminal history background check or other information received by the WHP indicates that a tow carrier owner or driver has been convicted of a felony within the past 10 years that the WHP determines might compromise public safety and security, such owner or driver shall not be approved for the rotational list and shall be notified of such determination by the TRPC.

(iii) If an owner or operator is convicted of a crime listed within this section after a background check was completed, notification must be made to the TRPC within 10 days of the conviction. A failure to disclose the conviction will be a cause for the owner or operator to be removed from operating on the rotational list.

(iv) For the purposes of this manual, a conviction includes any of the following:

(A) An unvacated adjudication of guilt or a determination of a violation in a court of original jurisdiction or an administrative proceeding;

(B) An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court;

(C) A plea of guilty, or nolo contendere accepted by the court;

(D) The payment of a fine or court cost; or

(E) Violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated.

(v) The WHP has the right to remove the tow carrier or driver from the rotational list upon receiving notification of the felony charge(s) or conviction. Such notification

shall be made by email, mail, fax, or hand delivery (in writing) by the TRPC within 10 days of being arrested or charged.

(dd) No operator, employee, or individual used by a tow carrier in a non-consensual tow and recovery operation shall be a member or affiliate of any federally identified criminal organization.

(ee) Tow carriers shall not be permitted to take any vehicle towed at the WHP's request to a storage lot other than the storage lot provided by the tow carrier unless otherwise authorized by the investigating WHP Member.

(ff) All tow carrier owners and drivers are expected to know, and shall comply with, all applicable federal/state regulations and traffic laws of Wyoming.

(gg) A tow carrier shall not perform repair work on a towed vehicle without first having obtained the owner's written consent.

(hh) A tow carrier shall transport a towed vehicle to any location requested by the owner/operator after a mutual agreement for payment/payment terms for the services rendered by the towing company is finalized.

(ii) Personal property shall be released to the owner/designee upon their request, unless the WHP member orders otherwise. Personal property is defined as anything not physically attached or mounted to the towed vehicle. Such items may include, but shall not be limited to, clothing articles, tools, and personal items contained in glove boxes or consoles. The tow carrier shall not charge for releasing personal property during normal business hours. This does not apply to anything that is considered part of the vehicle or the contracted load/cargo.

(jj) Any time personal property, cargo, or a vehicle, which has previously been towed, is released to the owner/designee by the towing carrier, the date and time of the release shall be noted on the original bill/receipt, and a copy shall be kept on file at the towing carriers storage facility.

Section 11. Storage Facility Requirements.

(a) Tow carriers shall be equipped to provide adequate storage for the proper safety and security of all vehicles towed at the request of the WHP.

(b) All tow carriers shall provide storage and prevent vandalism of all vehicles towed including the contents of the towed vehicles.

(c) If a storage facility is not adjoined to the tow carrier's place of business, the tow carrier's storage facility shall be identified with a highly visible sign containing the tow carrier's name and phone number. Tow carriers shall comply with the Vehicle Storage and Disposal Facility License requirements.

(d) The place of business, storage facility, and equipment shall be located within the tow carrier's approved rotational area.

(e) Vehicles towed at the request of the WHP shall be stored in a secure storage facility. The requirements as set forth by the Vehicle Storage and Disposal Facility License must be met.

(f) When a Hold Order is placed on a towed vehicle by a WHP member, the vehicle shall be placed in an area of the storage facility that is not accessible to the general public until such time that a WHP member releases the Hold Order on the towed vehicle. The member that requested the Hold Order or immediate supervisor will be the one to release it. When Hold Orders are released, a Vehicle Impound Form P-18(f) shall be completed. To assure adequate compensation, the towed vehicle will be released to the Tow Carrier unless already compensated for services.

Section 12. Call-Out Procedures and Standards.

(a) The rotational call-out system will operate in the following manner. When the need for a tow carrier is determined by the WHP, a tow carrier will be requested through the WHP Communications Center utilizing the rotational list unless a specific tow carrier is requested.

(b) A trooper shall not request a tow truck until on scene or until communication with the driver has been made without exigent circumstances. This will ensure no unnecessary equipment or time delays for the proper equipment to arrive safely on scene. The trooper will relay all pertinent information to the WHP Communication Center to include, but be not limited to, the vehicle make, model, year, where the vehicle(s) are located, and if any special equipment is necessary.

(c) All tow carriers operating on a rotational list are expected to respond to all calls for service when requested by the WHP Communication Center. In the event a tow carrier does not respond, it will result in missing a turn on rotation. This may result in disciplinary action unless extreme circumstances exist.

(d) A special request for a specific tow carrier shall be honored unless:

(i) The requested tow carrier cannot or does not respond in a reasonable time, as determined by a WHP member; or

(ii) The vehicle to be towed poses an immediate traffic hazard, as determined by a WHP Member.

(e) A special request will not affect the tow carrier's position on the rotational list, and a company need not be on the rotational list to be called as a special request.

(f) If a request for a tow carrier is made by another law enforcement agency, that information shall be given to the WHP Communication Center to ensure no other arrangements have been made.

(g) Upon a special request, the tow carrier does not have to be a tow carrier who operates on the rotational list.

(h) The WHP Communications Center will maintain a record log of all requests for tow carriers. This log will include, but will not be limited to, rotational request, personal request, no-answer, turn-down, tow carrier informing the WHP of a vehicle retrieval request they received, and anything else that warrants a log concerning a tow carrier.

(i) Whenever reasonable to do so, the motorist needing assistance will be asked by a member of the WHP if they have a preference for a specific tow carrier. If the vehicle is owned by a company and the driver is unsure, as to the company's preference, an effort by the WHP Communications Center shall be made to contact the respective company. If no preference is articulated, the next tow carrier on the rotational list will be called. If that tow carrier does not respond, then the next tow carrier on the rotational list will be called, and so on.

(j) A no-answer or turn-down response to a call will be considered a missed turn on the rotational list, and the tow carrier for that particular call will be moved to the bottom of the rotational list as if it had responded to the call.

(k) When the WHP calls a tow carrier on the rotational list and receives a busy signal, the dispatcher will wait a minimum of two minutes and then attempt a second call. If the line is still busy on the second call, the call will be considered a no-answer or turn-down call, and the Tow Carrier will be moved to the bottom of the rotational list.

(l) Tow carriers utilizing answering services, answering machines, or voicemail services must confirm acceptance of the call within two minutes by calling the WHP Communications Center. Failure to do so will be considered a missed turn on the rotational list, and the tow carrier will be moved to the bottom of the rotational list. In the event there are exigent circumstances surrounding the removal of a vehicle due to road blockage or adverse weather conditions, the two-minute wait may be waived to expedite a tow carrier's response. If this takes place, the tow carrier will lose their turn and will be placed on the bottom of the rotational list.

(m) The WHP may determine that certain circumstances warrant the use of a tow carrier closest to an emergency, rather than the Tow Carrier next on the rotational list. In these circumstances, the special request made by the WHP shall not affect the tow carrier's position on the rotational list. A tow carrier need not be on the rotational list to be called as a special request. This will also supersede any special request made by the motoring public as a matter of public safety.

(n) The WHP will maintain separate rotational lists for specific classes of tow trucks (small, large, AAA, and abandoned). If the local Sheriff's Department maintains the abandoned vehicle rotational list for a given area, the WHP Communications Center will document when vehicles are removed utilizing the Sheriff's rotational list.

(o) If emergency services are being performed at the scene and the immediate use of a tow truck is not required, WHP members should not request a tow truck until all other services

have been performed and are completed. In the event a lengthy response time would be required due to the location, then a request prior to these services being performed is acceptable.

(p) A tow carrier on the rotational list may have no more than two telephone numbers for call-out purposes, and those two numbers shall be listed with the WHP as primary and secondary numbers. Any change in telephone number must be reported immediately to the WHP Communications Center.

(q) Any tow carriers on the rotational list, before responding to any call for service on a state highway and *not dispatched originally by WHP*, shall call the WHP Communications Center at 1-800-442-9090 or (307) 777-4321 and inform the center of the location of the intended response and of any other pertinent information regarding the nature of the call. If the WHP has already dispatched from the rotational list to that particular call, the WHP dispatched tow carrier will be given first preference on the call.

(r) No tow carrier on the rotational list shall solicit or retrieve any vehicle for which another tow carrier has already been called.

(s) All tow carriers are strictly prohibited from “chasing” or “running” of any crashes or breakdowns.

(t) No tow carrier shall stop at the scene of a crash, disabled, or unattended vehicle for the purposes of soliciting business, either directly or indirectly, unless the owner or operator of said vehicle has specifically summoned the tow carrier or its employees or agents to such a scene for towing or recovery purposes. Cruising highways for direct or indirect compensation is prohibited.

(u) No tow carrier shall use any information obtained over a police monitoring device for the purposes of soliciting tow services.

(v) If a tow carrier, currently on the rotational list, arrives at a scene and has received no call from the WHP or from the owner of the vehicle that requires towing, the tow carrier shall be investigated as set forth in this manual. The trooper on the scene shall notify the TRPC and the trooper’s chain of command with the applicable information.

(w) If a tow carrier will be out of service for an extended period of time, seven days or longer, they must request to be removed from the rotational list. This request to be removed from the rotational list must be made by calling the WHP Communications Center. The TRPC must reinstate a tow carrier when the Tow Carrier requests to be placed back on the rotation and is qualified.

(x) When called from the rotational list, tow carriers shall provide the WHP with their estimated time of arrival to the incident in minutes. The WHP employee requesting the rotational list tow and recovery carrier may, based upon the circumstances of the incident, determine the predicted response time is too lengthy and may opt for calling the next rotational list tow carriers. If this occurs, the original tow carrier called will be moved to the bottom of the rotational list.

(y) When a recovery operation interferes with the normal flow of traffic on a street or highway, appropriate measures must be taken to provide sufficient warning to the motoring public and sufficient traffic control, so the recovery can be completed in a safe and efficient manner. The WHP will assist with traffic control whenever reasonable and practical, however, other duties may preclude assistance.

(z) The Department hereby incorporates by reference the following uniform rules:

(i) The Manual on Uniform Traffic Control Devices Part 6, adopted by the Department and effective on December 1, 2009, found electronically at mutcd.fhwa.dot.gov. The uniform rules for traffic control adopted by the Department shall govern all traffic control requirements.

(ii) The Department has determined that incorporation of the full text in these rules would be cumbersome or inefficient given the length or nature of the rules;

(iii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (z)(1) of this section; and

(iv) The incorporated rules are maintained at WYDOT, 5300 Bishop Boulevard, Cheyenne, Wyoming and are available for the public inspection and copying, at no cost to the public, at the same location.

(aa) In order for a tow carrier to charge for traffic control or traffic diversion, it must meet the requirements as set forth above.

(bb) Tow carriers shall not transfer a rotational list call-out to another tow carrier. Tow carriers shall not subcontract another tow carrier for assistance when it is unnecessary. Subcontracting for difficult or problematic calls is allowed on a case-by-case basis with approval from the on scene Trooper. The tow carrier originally receiving the call shall remain as the primary carrier for the call.

(cc) Ordinarily, only one tow truck shall be called to any incident. If additional equipment or recovery vehicles are needed to adequately complete a tow (such as a tractor-trailer, heavy equipment, additional wreckers, and so on), the severity of the situation and the estimated response time of additional equipment shall be weighed by the WHP member at the scene. The WHP member shall determine if additional assistance or equipment is required and if another tow carrier and equipment should be called that may have the ability to respond in a more timely fashion to open the roadway. If the tow carrier requests such assistance for additional equipment, and the WHP member grants the request, the WHP member shall note this through the WHP Communications Center.

(dd) In the event assistance is requested by an out-of-state Tow Carrier, they are subject to all the policies, procedures, and rules outlined herein. The final approval will be determined by the WHP.

(ee) A WHP member shall determine the towing vehicle class and other potential equipment required to safely tow a disabled vehicle, relay that determination to the WHP Communication Center, and the dispatcher shall relay that information to the next scheduled towing company on the rotational list.

(ff) If the first called tow carrier cannot remove the vehicle and does not have another tow truck that can perform the requested task, then the next scheduled tow carrier on the rotational list shall be called by the WHP. This is not a contracted job for either tow carrier, and the second tow carrier will get compensation for the service. The first called tow carrier shall not be paid for responding to the call and will be moved to the bottom of the rotational list. If the WHP member's initial determination of the tow truck required to remove the disabled vehicle is incorrect and the tow carrier responds but cannot perform the task because it does not have the required equipment, then the tow carrier will not be rotated to the bottom of the rotational list.

(gg) Under no circumstance shall a tow carrier be permitted to arrive at the scene without the required tow truck class and equipment and charge for two service calls in order to obtain the required equipment needed. Tow carriers shall not impede the recovery and removal time of a vehicle without the express approval of a WHP member in charge of the scene.

(hh) If severe weather prevents the removal or recovery of a vehicle that is not considered a hazard, the tow carrier shall notify the WHP Communications Center or the on-scene WHP Member of when the vehicle will be removed. The tow carrier shall adequately mark the vehicle that is left with caution tape or something similar in nature. This will provide passing motorists with a visual sign alerting them the vehicle and occupants have already been attended to, hopefully reducing redundant calls and wasting resources.

(ii) If the recovery involves a commercial carrier and a load is compromised, the tow carrier shall notify the commercial carrier immediately. The request will determine if the tow carrier's presence on scene for safekeeping of the load is required.

(jj) No tow truck operator shall transport, or allow to be transported, any passengers in any vehicle being towed, recovered, or hauled by a wrecker, recovery vehicle, or rollback. Passengers from these vehicles are allowed to be transported in the tow and recovery vehicle. If an operator elects to have no passengers in the tow vehicle when sufficient space is available, no additional rate of charge shall be given. In instances like this, calling for a taxi or an additional tow vehicle to transport occupants is unacceptable. If the occupants outnumber the seating within the tow vehicle, other arrangements shall be made with applicable fees.

(kk) All tow carrier operations involving combination units shall be in compliance with W.S. 31-18-802 and W.S. 31-18-808.

(ll) Tow carriers are expressly prohibited from calling the WHP Communication Center or WHP member to determine their position on the rotational list. The tow carrier shall direct all administrative questions to the TRPC.

Section 13. Towing of Hazardous Vehicles.

(a) When a trooper locates a vehicle in a hazardous location, parked in violation of W.S. 31-5-504 or W.S. 31-5-505, the trooper will notify the WHP Communications Center of the following information: 1) location, 2) vehicle description, 3) license plate or VIN if no plate is present or invalid, and 4) nature of the hazard. The trooper will request the WHP Communications Center attempt to contact the registered owner and determine what arrangements have been made to remove the vehicle. If contact with the owner is not possible, the trooper should remove the vehicle pursuant to W.S. 31-5-508. A vehicle inventory form (P-22) will be completed.

(b) If the trooper is notified of the hazardous situation by a third party, it will be the trooper's responsibility to obtain the information required above and follow the same notification process of the owner prior to removal of the vehicle.

(c) In all situations where a hazardous vehicle was removed and the WHP Communications Center was unable to contact the owner (including removals originating from a third party as outlined above), a Notification Form addressed to the registered owner will be sent by the trooper who initiated or approved the tow with copies to their immediate supervisor and the Communications Center. A message left on an answering machine or voicemail is not a substitute for written notification. Notifications that are returned as "undeliverable" will be preserved and forwarded to the division lieutenant with copies to the support services officer, dispatch.

(d) It should be noted, W.S. 31-5-508 requires the vehicle to be "in a position or under circumstances which obstruct the normal movement of traffic." An abandoned vehicle parked alongside the roadway with an unobstructed width of the highway opposite the vehicle may not be a hazard. A vehicle parked after dark without park lights but not obstructing the normal flow of traffic may not, on its own, be a hazard. The formation of a snowdrift by a legally parked vehicle does not, by its own accord, constitute a hazard. (Once a vehicle has been designated as an abandoned vehicle by affixing the Abandoned Vehicle Notice, it must be removed pursuant to W.S. 31-13-104).

(e) Each individual situation should be addressed on its own merits and documented. Photographs, video, or diagrams documenting the hazard are encouraged.

Section 14. Demeanor and Conduct.

(a) While operating on the rotational list, all tow operators and/or employees shall refrain from any acts of misconduct including, but not limited to, any of the following:

(i) Rude or discourteous behavior;

(ii) Lack of service, selective service, or refusal to provide service that the operator is capable of performing;

(iii) Any act of sexual harassment or sexual impropriety;

- (iv) Unsafe driving practices;
- (v) Any acts of discrimination based on a protected group; and
- (vi) Exhibiting any objective symptoms of alcohol or drug use.

(a) All operators of tow trucks, wreckers, and service vehicles shall submit to a preliminary alcohol or drug screening test upon a demand by the WHP if they have reasonable suspicion that an alcoholic beverage or controlled substance has been used by the operator.

Section 15. Complaints.

(a) The owner, operator, or insurer of a vehicle towed by a tow carrier operating on the rotational list may file a written complaint using the T/R-8 form. Once this form is complete, it will be sent to the TRPC who will forward all appropriate documentation to the DRC if the owner, operator, or insurer alleges that:

- (i) The tow carrier charged an excessive towing, recovery, storage, or other services rate;
- (ii) The tow carrier violated WYDOT rules and regulations; or
- (iii) The tow carrier violated procedures of this manual.

(b) All complaints should contain:

- (i) The name of the complainant;
- (ii) The complainant's address, phone number, and email address;
- (iii) The time and manner in which the complainant may be contacted;
- (iv) The name of the tow and recovery carrier;
- (v) The cause of the complaint;
- (vi) Copies of any documents received from or correspondence with the tow and recovery carrier;
- (vii) The names and phone numbers of any witnesses; and
- (viii) Any other facts that may assist the DRC or WHP in investigating the complaint.

(c) Complaints must be signed and submitted in writing to the TRPC. This will be done by using the complaint form (T/R-8). The complaining party shall include the tow and

recovery carrier for which the complaint is being filed against including a detailed description of the facts. The TRPC and the T/R-8 form may be found on the WHP website.

(i) All tow carriers shall cooperate with the TRPC and the DRC during all investigations in order to ensure a complete and thorough investigation is complete.

Section 16. Dispute Resolution Committee (DRC).

(a) All tow carrier complaints and invoice disputes will be reviewed by the DRC.

(b) The Commercial Carrier Section will appoint DRC members. The DRC will be comprised of five to eight members with no more than two members from each of the following:

(i) Tow carrier industry;

(ii) Wyoming Trucking Association;

(iii) Insurance industry; and

(iv) WHP.

(c) Committee members will serve a 3-year term and may serve more than one term consecutively. There is no limit on the number of terms a representative may serve.

(d) If terms are not staggered and expire at the same time, there will be a transitional period of one month where the new member and the existing member serve together. This will ensure the committee is full at all times.

(e) The commercial carrier captain may at any point remove a member of the DRC for any reason. A candidate will be selected from the list of applications on file and, once appointed, would finish out the remainder of the term.

(f) The DRC shall meet as often as necessary, either in person or by teleconference, to review and resolve disputes or complaints.

(g) An annual meeting will be held by the DRC who will elect a chair presiding over the meetings and hearings. A vice chair will also be elected in case the chair is unable to be present.

(h) Each member serving on the DRC will receive a copy of the complaint with all supporting documents.

(i) A copy of the complaint will be sent to the tow carrier in an attempt to come to a resolution. The expectation is that the tow carrier and the complainant resolve the issues without having a complete and full investigation. A formal response of the resolution should be provided to the TRPC.

(j) If the tow carrier fails to respond within 20 days, beginning on the 21st day, the tow carrier shall be suspended from the rotational list. This will remain in effect until a response has been received by the TRPC.

(k) When the DRC receives a complaint or dispute, it shall:

(i) Set a date, time, and location in which the committee will hear the complaint and provide such information to all parties in the dispute;

(ii) Provide the complaining party an opportunity to address the DRC regarding the complaint;

(iii) Provide the responding party an opportunity to answer the complaining party;

(iv) Provide any other party an opportunity to address the DRC regarding the complaint;

(v) Provide any witness the committee deems relevant an opportunity to address the committee; and

(vi) Retain an audio or video recording of the hearing that may be copied or transcribed at the request of any person who pays the cost thereof.

(l) At the conclusion of the hearing, the DRC, having a majority, will provide a recommendation to the Colonel based on the factual basis of the dispute. The Colonel at the direction of the Director of WYDOT will make the final determination what action will be taken.

(m) DRC members will have access to other tow carrier invoices, statements made by both the tow carrier and the client. WHP evidence may include videos and photos of a crash scene when applicable, crash reports, trooper reports, and T/R-7 form to compare invoices to assure accuracy.

Section 17. Disciplinary Actions.

(a) Any tow carrier, while doing business as a part of the WHP non-consensual rotational system, that violates any state, local, or federal laws, this Manual, or any Department rule, or commits any act that is contrary to public safety, is subject to disciplinary action.

(b) A system has been established when disciplinary action is deemed appropriate and necessary. Violations are separated into two categories, minor and major, to ensure they are issued on an equal and fair basis.

(c) Violations not specifically listed below will be left to the discretion of the Colonel and/or the director of the Department.

(d) Regardless of the severity of any action taken, all letters will be kept indefinitely and do not expire.

(e) Minor violation penalties include:

- (i) 1st offense: Written warning;
- (ii) 2nd offense: 30-day suspension;
- (iii) 3rd offense: 45-day suspension;
- (iv) 4th offense: 90-day suspension;
- (v) 5th offense: 1-year suspension; and
- (vi) 6th offense: Permanent removal.

(f) Minor violations may include the following or similar conduct:

- (i) A tow carrier calling the WHP to request position on rotation;
- (ii) Vehicle or driver inspections not in vehicle;
- (iii) Insurance lapse or improper coverage;
- (iv) Tow truck driver arriving to scene without qualification on file;
- (v) Giving an estimated time of arrival and not arriving at a reasonable time without informing the WHP Communications Center or on-scene trooper;
- (vi) Rates not posted or available for customers within business;
- (vii) Towing a vehicle to an unapproved storage facility;
- (viii) Missing or improper equipment on a towing vehicle at a crash scene;
- (ix) Charging to collect payment elsewhere if unable to collect payment option at the scene by a customer;
- (x) Failure or refusal to answer a call or respond to scene;
- (xi) Retrieving a vehicle on the highway without notifying the WHP;
- (xii) Being unavailable for vehicle release during normal business hours then charging for storage;

(xiii) Responding to a call with an uninspected tow truck or with an out-of-service violation; or

(xiv) Making a false or unsubstantiated complaint against another tow carrier.

(g) Major violation penalties include:

(i) 1st offense: 45-day suspension;

(ii) 2nd offense: 90-day suspension;

(iii) 3rd offense: 1-year suspension; and

(iv) 4th offense: Permanent removal.

(h) Major violations may include the following or similar conduct:

(i) Not responding to a call when accepted and without notifying the WHP;

(ii) Wreck chasing/running the roads, solicitation of business, or arriving on a scene without being called;

(iii) Tow truck driver arriving on scene while impaired by drugs or alcohol;

(iv) No facility within divisional rotation area;

(v) Failure to be independent of another tow and recovery company within the same divisional rotation area;

(vi) Unauthorized or overcharged rates based on fee schedule provided to WHP;

(vii) False or inaccurate information on a T/R-1 form (Rotational Application);

(viii) Theft of property; or

(ix) Releasing a vehicle WHP has put a hold on without prior approval.

(i) All suspensions or removals under these rules will be imposed by the Colonel as designated by the WYDOT Director.

(j) When a tow carrier is suspended, all owners and employees are suspended from operating on the WHP Non-Consensual rotations. The owner or employees of the suspended tow carrier are not allowed to add a new company on the rotation while the suspension is being served.

(k) If a tow carrier is suspended, that tow carrier cannot respond to any calls from the WHP rotation, whether it is using its own tow trucks or other tow carriers' tow trucks.

(l) If a tow carrier is permanently removed, the owner will also be permanently removed and will not be allowed to be associated with a tow carrier that operates on the rotational list.

(m) All tow carriers on the rotational list operating on a consensual basis in Wyoming are subject to all the disciplinary actions and the reconsideration process as outlined in this manual.

(n) A tow carrier will be removed prior to the reconsideration process if the act committed is egregious enough as to affect public safety.

Section 18. Request for Reconsideration Process.

(a) At the conclusion of an investigation, the tow carrier may receive a letter of reprimand outlining the violation(s).

(b) Written warnings will not be subject for reconsideration. All other suspensions in Section 17 are subject for reconsideration by the tow carrier upon written request to the TRPC.

(c) If a request for reconsideration is made by a tow carrier, no disciplinary action will take effect until such process is complete.

(d) If a tow carrier fails to make a request for reconsideration within 10 business days or fails to appear at a scheduled hearing, the original disciplinary action given by the Colonel will take effect immediately the following business day.

(e) The reconsideration process must be initiated within 10 business days of receipt of the original suspension letter.

(i) A tow carrier has the option to appear in person in front of the DRC. The tow carrier must make this request within 10 business days to the TRPC.

(ii) The informal hearing will be held within a timely manner.

(iii) The DRC will consider all factors and provide a recommendation to the Colonel. The tow carrier will be notified regarding the Colonel's decision on the suspension.

(iv) If a tow carrier does not request reconsideration, the suspension will go into effect on the eleventh business day after the letter was delivered.

(f) A tow carrier that has been removed from the rotational list may request reinstatement in writing at or near the end of the removal period. This request shall be sent to the TRPC.

(g) Permanent Removal:

(i) A tow carrier may request reconsideration, in writing, to the Colonel within 10 business days following the receipt of the original permanent removal notification letter. The Colonel may arrange a meeting with the tow carrier, the commercial carrier captain, and any other applicable parties involved. The Colonel will allow everyone involved to explain their position before rendering a decision. The decision should be made within a reasonable amount of time of the meeting. The Colonel will make the final decision and will notify the tow carrier with no further review available.

(h) Appeal Process:

(i) A tow carrier may file an appeal that will be sent directly to the Colonel. Practice and procedure for hearings before the Department shall be as provided in Chapter 3, General Section, of the Wyoming Department of Transportation Rules and Regulations.

(ii) A suspension will remain in effect unless the Office of Administrative Hearing renders a decision in favor of the tow carrier.

Section 19. Towing Advisory Board (TAB).

(a) The TAB shall act in an advisory capacity and make recommendations to WHP regarding the regulations that towing and recovery operators are to be regulated by, and such other duties as may be assigned by WHP.

(b) The Commercial Carrier Section will appoint TAB members. The TAB will be comprised of five to eight members with no more than two members from each of the following:

- (i) Tow carrier industry;
- (ii) Wyoming Trucking Association;
- (iii) Insurance industry; and
- (iv) WHP.

(c) A representative from the Wyoming Attorney General's Office and the WHP Communication Center may attend and be present but are not members of the TAB.

(d) TAB members will serve a 3-year term and may serve more than one term consecutively. There is no limit on the number of terms served by a TAB member.

(e) If terms are not staggered and expire at the same time, there will be a transitional period of one month where the new member and the existing member serve together. This will ensure the TAB is full at all times.

(f) The commercial carrier captain may at any point remove a member of the committee for any justifiable reason. A candidate will be selected from the list of applications on file and, once appointed, would finish out the remainder of the term.

(g) All applicable information regarding the TAB can be found on the WHP website.

(h) A majority vote will be used by TAB members to elect a chair who will preside over the minutes and the meeting agenda. A vice chairman will also be elected in case the chairman is unable to be present. Both the chairman and vice chairman shall serve in their capacity until their terms expire.

(i) The TAB shall meet one or two times per year depending on the amount of information that is necessary to discuss.

(i) These meetings shall take place in person, by video conference, or by teleconference.

(ii) The purpose of these meetings shall be to review and discuss the WHP's Voluntary Towing Operational Policies and Procedures and to share information that is pertinent to the towing and recovery industry to assess if there are specific trends that need to be addressed.

(iii) All applicable information deriving from the meetings shall be sent to the TRPC.

(j) TAB members will access rotational applications, inspection forms, fee schedules, disputed invoices, and this manual.