

ARKANSAS TOWING & RECOVERY BOARD

RULES AND REGULATIONS

PURSUANT TO ARKANSAS CODE ANNOTATED 27-50-1201 et seq.

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RULE 1: DEFINITIONS

For purposes of these Regulations promulgated by the Arkansas Towing & Recovery Board pursuant to Act 899 of 1989 and/or Acts 1000 of 1993 and 250, 381, 392 and 841 of 1997, the same being Arkansas Code Annotated 27-50-1201 et seq. , as now or hereafter amended, the following definitions, unless the text otherwise requires, shall apply:

1.1 **“THE BOARD”** hereinafter referred to shall mean the ARKANSAS TOWING AND RECOVERY BOARD.

1.2 **“THE DIRECTOR”** hereinafter referred to shall mean the Director for the Board, or any other person authorized by the Board to administer its Rules and Regulations.

1.3 **“TOWING INDUSTRY”** hereinafter referred to shall mean the use of tow vehicle(s) by any person, individual, partnership, corporation, association, or other entity, to tow, recover, upright, transport, or otherwise facilitate the movement of vehicles on Arkansas’s public roadways, and/or storage of vehicles.

1.4 **“VEHICLE”** hereinafter referred to shall mean any device by which persons or things may be transported upon a public roadway and is of the type subject to registration in Arkansas.

1.5 **“TOW VEHICLE”** hereinafter referred to shall mean any motor vehicle and/or related equipment subject to registration in the State of Arkansas which is used to tow, recover, upright, transport or otherwise facilitate the movement of vehicles on public roadways.

1.6 **“LICENSE”** hereinafter referred to shall mean a certificate issued by the Board entitling a member of the towing industry to engage in the towing business.

1.7 **“LICENSEE”** hereinafter referred to shall mean a member of the towing industry holding a valid License issued by the Board.

1.8 **“EQUIPMENT”** hereinafter referred to shall mean any vehicle and/or related equipment used by a member of the towing industry to recover, upright, transport, or to

otherwise facilitate movement of vehicles on public roadways.

1.9 “**NON-CONSENT**” hereinafter referred to shall mean the towing, storage, or recovery of any unattended or abandoned vehicle, or any disabled or inoperative vehicle for which the owner preference is waived by the owner or person in charge thereof.

1.10 “**CONSENT**” means towing, storage, or recovery of any vehicle, which towing, storage or recovery is done with the permission of the owner or other person in charge of the vehicle.

1.11 “**TOW VEHICLE SAFETY PERMIT**” hereinafter referred to shall mean a decal issued by the Board to be affixed to the windshield of any tow vehicle operated by a member of the towing industry.

1.12 “**Recover/Recovery**” anything outside of the normal scope of a standard tow, to include the following: (each to be itemized individually)

A. “**Winching**” additional use of cable and winch, not to include cable and winch used to pull a vehicle up on rollback or trailer in standard tow.

B. “**Labor**” additional manpower or time required to prepare a vehicle beyond the normal scope of a standard tow, may include but is not limited to site clean-up, tarping, or securing vehicle parts and contents.

1.13 “**Storage**” a daily fee required by a towing company to secure and safely store a vehicle.

1.14 “**Administration Fee**” a fee charged for the labor and use of office infrastructure for the itemization of a recovery, tow, or storage bill and related processing.

1.15 “**Standard Tow**” any tow of a vehicle subject to registration in the State of Arkansas, removed from private property, accident scene, side of the roadway, etc., towed in a fashion regularly accepted as routine, to include regular preparation for the tow.

RULE 2: EXEMPTIONS

The Rules and Regulations promulgated pursuant to Arkansas Act 1000 of 1993 as amended by Acts 250, 381, 392 and 841 of 1997, the same being Arkansas Code Annotated 27-50-1201 et seq., as now or hereafter amended, shall not apply to the following:

A. Car carriers capable of carrying five (5) or more vehicles and which have authority granted by federal Interstate Commerce Commission or its successor(s).

B. Tow vehicles owned by a governmental entity and not used for commercial purposes.

C. Tow vehicles that are registered in another state, operating under authority of federal Interstate Commerce Commission or its successor, and which do not regularly do business or solicit business in the State of Arkansas. However, any tow vehicle for which this exemption is claimed must be in compliance with 27-35-112.

D. A tow vehicle which is used by its owner in his private affairs, provided such tow vehicle shall not be used as an instrument to facilitate the movement of vehicles in any business or commercial venture.

RULE 3: GENERAL ORGANIZATION OF THE BOARD

- 3.1 The Arkansas Towing and Recovery Board shall meet at least once in each quarter at the call of the chairperson, and shall continue in session until business is completed insofar as possible. Five (5) members of the board shall constitute a quorum.
- 3.2 Meetings of the Board shall be held on dates and at times and locations selected by the chairperson of the Board.
- 3.3 Special meetings of the Board may be called at any time by the chairperson, the vice chairperson or the acting chairperson.
- 3.4 The board shall elect a chairperson annually from the membership of the board.
- 3.5 Any person desiring to appear before the Board at any meeting on any matter within the jurisdiction of the Board shall, at least ten (10) business days prior to such meeting, file with the chairperson or the Director a written request in which the nature and purpose of the appearance shall be clearly and precisely stated in sufficient detail to fully apprise the Board of the basis and extent of the business. This requirement may be waived at any meeting only by majority consent of the Board members present and voting on the matter, provided, when such a request is in the nature of a complaint against a member of the towing industry under the provisions of Arkansas Code Annotated 27-50-1201 et. seq., as now or hereafter amended, the provisions of Rule 5 shall apply.
- 3.6 The Director shall arrange the order of business of all meetings of the Board and shall, at least ten (10) business days prior thereto, notify all persons who are to appear before the Board at such meeting of the place, the date and the time of the meeting.
- 3.7 The Director shall keep and maintain on file in the Board's office a record of all proceedings of the Board. The Director shall also keep on file in the Board's office copies of all

orders issued by the Board, for a period not less than three (3) years.

3.8 The Board shall be governed by the Arkansas Administrative Procedures Act, the same being A.C.A. 15-15-201 et seq., as amended from time to time, and the Arkansas Freedom of Information Act, the same being A.C.A. 25-19-101 et seq., as amended from time to time.

3.9 All legal process and all documents required by law to be served upon or filed with the Board shall be served or filed with the Director at the official address of the Board.

RULE 4: POWERS OF THE BOARD

4.1 The Board shall have the power to promulgate such Rules and Regulations, in the manner provided by the Arkansas Administrative Procedures Act, same being A.C.A. 23-25-201 et seq., as amended from time to time, necessary to carry out the intent of Arkansas Code Annotated 27-50-1201 et seq., as amended from time to time, and to regulate the towing industry, including but not limited to:

A. Establishing reasonable licensing, insurance and safety equipment requirements for any person, individual, firm, association, company, partnership, corporation, non-profit organization, institution, or other similar legal entity engaging in towing and/or related services, for safety purposes and,

B. Establishing reasonable safety equipment requirements for any tow vehicle as defined in Rule 1.3 of these Regulations.

C. Establishing a procedure to accept and investigate complaints for a consumer who claims he /she has been overcharged for non-consent towing, recovery, or storage.

D. Determining and sanctioning excessive or unnecessary non-consensual towing, recovery, and storage fees charged to consumers.

E. Requiring all entities permitted, licensed, or regulated under A.C.A. 27-50-1201 et seq, to provide to the Board all documents in response to information requests by the Board to the investigation of consumer complaints or board complaints against the permittee or licensee.

F. Requiring all entities permitted, licensed, or regulated under A.C.A 27-50-1201 et seq, to provide an itemized billing that explains how the charges were calculated for towing or storage fees, and all related fees.

G. Requiring all entities permitted, licensed, or regulated by A.C.A 27-50-

1201 et seq, to maintain a copy of their current **maximum** rate schedule posted in a conspicuous place and readily accessible to the public.

4.2 The Board shall have the authority to set fees for towing business licenses and for tow vehicle safety permits issued to members of the towing industry; except as provided in Rule 4.14

4.3 The Board shall have authority to impose penalties for late license and/or permit renewal application filings in an amount not to exceed the amount of fee(s) due for the license and/or permit(s) renewal(s).

A. Penalty for late License renewal application filings shall be at rate of \$5.00 per day, not to exceed amount of fee due for the license renewal.

B. Penalty for late Permit renewal application filings shall be at rate of \$1.00 per day, per Permit, not to exceed amount of fee due for the permit renewal.

4.4 The Board shall have authority to establish requirements and qualifications for issuance of licenses and tow vehicle safety permits to members of the towing industry as defined in these Regulations.

4.5 The Board shall have authority to investigate consumer complaints related to overcharging for non-consensual towing or storage fees, alleged violations of the provisions of Arkansas Code Annotated 27-50-1101 and 27-50-1201 et seq., as now or hereafter amended, and Board Rules and Regulations promulgated pursuant thereto, and the authority to pursue any remedies pursuant thereto.

4.6 The Board shall have authority to design application forms pursuant to these Regulations, as now or hereafter amended, for licenses and for tow vehicle safety permits, and to require the filing of same with the Board. The Director shall keep on file a copy of each

application form adopted by the Board, referencing Minutes of meeting(s) during which such form is approved.

4.7 The Board shall have the authority to issue and renew licenses and tow vehicle safety permits pursuant to A.C.A. 27-50-1201 et seq. and these Rules and Regulations, as now or hereafter amended.

4.8 The Board shall have the authority to refuse to renew, to suspend and to revoke any license or tow vehicle safety permit for any violation of A.C.A. 27-50-1101 and 27-50-1201 et seq., as now or hereafter amended, or any Rule and Regulation promulgated pursuant thereto.

4.9 Any member of the towing industry determined by the Board, after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedures Act of Arkansas as amended from time to time, to have committed an act that is in violation of Arkansas Code Annotated 27-50- 1201 et seq., as now or hereafter amended, or any Rule and Regulation promulgated pursuant thereto, is subject to civil penalties, including monetary penalties, not to exceed five thousand (5000) dollars per offense, each act of violation constituting a distinct and separate offense, and/or suspension or revocation of any towing business license and/or any tow vehicle safety permit, or both. Nothing in this section shall be construed to limit the right to seek judicial review of any determination of the Arkansas Towing and Recovery Board pursuant to the provisions of the Arkansas Administrative Procedures Act § 25-15-201 et seq..

4.10 In the conduct of any investigation, or hearing pursuant to any investigation, the officer conducting the hearing may administer oaths and may require testimony or evidence to be given under oath.

4.11 The Board shall have the authority to direct the execution of a summons, citation,

4.12 The Board shall have the authority to require, and to set minimum amounts of coverage for, liability, on-hook and premises insurance on the part of each Licensee.

4.13 The Board shall have the authority to establish minimum safety equipment requirements for any tow vehicle as defined in Rule 1.5 of these Regulations.

4.14 The Board shall have the authority to establish maximum amount charged for notification required by A.C.A. 27-50-1208, as now or hereafter amended, to be sent to a vehicle owner(s) and/or lien holder(s).

RULE 5: HEARING PROVISIONS

5.1 Any hearing to be conducted by the Board may be held during a regular Board meeting, or a special Board meeting may be convened for that purpose.

5.2 The Director shall have authority to delay or to deny approval of any application for a license or tow vehicle safety permit if the applicant fails to meet the minimum requirements and the qualifications set by the Board. Said delay or denial shall be in writing to the applicant, stating the reason for the delay or the denial. Any applicant whose application is denied shall also be advised of his right to appeal the denial to the Board.

5.3 An applicant who has been denied a license or tow vehicle safety permit by the Director may appeal said denial by notifying the Director in writing within fifteen (15) days of date of Notice of Denial.

5.4 In the event it is determined by the Director that a license or permit has been issued in error, or that accounting records and/or bank statement reflects proper amount of license and/or permit fees was not received, the Director shall have authority to summarily suspend or revoke said license and/or permit. In such circumstance, or in the event of suspension of any licensee or permit pursuant to Rule 9.4 of these regulations, as now or hereafter amended, the licensee or tow vehicle safety permit holder shall be notified in writing via certified mail of his right to a hearing before the Board. If the licensee or permit holder fails to submit a request in writing for a hearing before the Board within the fifteen (15) days prescribed in Rule 5.3, said suspension or revocation shall become final. Upon decision to hold formal hearing to consider suspension or revocation of any license or tow vehicle safety permit issued by the Board pursuant to A.C.A. 27-50-1101 and 27-50-1201 et seq., as now or hereafter amended, or the Rules and Regulations promulgated pursuant thereto, the Board shall notify the licensee or tow vehicle safety permit holder of his right to such hearing before the Board.

5.5 If, as the result of its own investigation, or as result of any complaint filed against a licensee or tow vehicle safety permit holder, it is determined by the Board there exists sufficient evidence that a licensee's or tow vehicle safety permit holder's conduct constitutes a violation of Arkansas Code Annotated 27-50-1101 and 27-50-1201 et seq., as now or hereafter amended, or the Rules and Regulations promulgated pursuant thereto, the Board may fine respondent as set forth in Rule 4.9, and/or reprimand respondent, and/or suspend or revoke any license or permit issued to respondent. The Board shall provide no less than fifteen (15) days advance written notice to the licensee or tow vehicle safety permit holder of said hearing.

A. Said notice shall inform respondent of alleged facts or conduct warranting a hearing and shall contain information of the right to claim, within ten (10) business days of date of notification, a hearing to appeal intended action of the Board; provided,.

B. If the Board finds the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, summary suspension of a license and/or permit may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.

5.6 All evidence, including records and documents in the possession of the Board of which it desires to consider, shall be offered and made a part of the record in the hearing. Any respondent whose rights may be affected by said hearing shall have the right to appear personally and by counsel to introduce evidence in his or its own behalf, to cross-examine witnesses, and to examine any document or other evidence submitted.

5.7 The Board shall not be bound by the technical rules of evidence and it may admit and give probative value to any evidence which possesses such probative value as would entitle it to be accepted by reasonable and prudent men in the conduct of their affairs, provided however, that the Board shall give effect to the rules of privilege recognized by the law and may

exclude incompetent, irrelevant, immaterial, or repetitious

evidence and may make rulings to protect witnesses from undue harassment or oppression.

5.8 The Director shall maintain documents and files relative to Board business. All pleadings and motions to be filed relative to any hearing before the Board shall be in duplicate, signed, verified, dated and filed with the Director and held for a period not less than three (3) years.

5.9 In any hearing held for the purpose of affording any applicant the opportunity to show his qualifications to hold a license or tow vehicle safety permit, burden of going forward with the evidence shall be on the applicant. In hearings held for the purpose of reprimanding, suspending, revoking or fining any respondent, burden of going forward shall be on the Board, the Director or the Board's legal counsel.

5.10 All decisions by the Board shall be in writing and signed by the chairperson of the Board, and shall include Findings of Fact and Conclusions of Law separately stated in an appropriate order entered in accordance therewith. A copy of the Findings of Fact and Conclusions of Law and the Order shall be sent to each party of the hearing.

RULE 6: LICENSE AND TOW VEHICLE SAFETY PERMIT REQUIREMENTS

6.1 Subsequent to July 1, 1994, any member of the towing industry providing towing services is required to obtain from the Board, and renew annually, a Tow Safety License authorizing the business to engage in towing and related services.

6.2 Subsequent to July 1, 1994, any tow vehicle as defined in A.C.A. 27-50-1201 et seq. and these Rules and Regulations which is not exempt under provisions of Rule 2 of these regulations and is being operated on Arkansas's public roadways, is required to have a valid Tow Vehicle Safety Permit issued by the Board for that vehicle displayed on its windshield.

A. Any tow vehicle used to provide non-consent towing and related services is to display a valid non-consent Tow Vehicle Safety Permit issued by the Board for that vehicle. Such tow vehicle may also be used to provide consent towing and related services.

B. Any tow vehicle used to provide only consent towing and related services is to display a valid consent Tow Vehicle Safety Permit issued by the Board for that vehicle. Such vehicle shall not be used to provide non-consent towing and related services, except if utilized in conjunction with a current certificate of insurance on file with the Board for other services rendered as part of non-consent towing, provided, however any usage of the tow vehicle in conjunction with non-consent towing shall have coverage in compliance with the insurance requirements of Rule 9.2 of these Rules and Regulations.

6.3 The Director shall issue License and/or Tow Vehicle Safety Permit(s) to any member of the towing industry, which makes proper application reflecting qualifications required by the Board in these Rules and Regulations are met.

A. No License authorizing a business to engage, or to continue to engage, in towing and related services shall be issued until a sufficient application is filed with the Board. For purposes of these Regulations, a sufficient application for a Towing Business Safety License shall include:

(1) Information Sheet provided by the Board as part of the application completed in its entirety.

(2) Current Certificate(s) of Insurance reflecting minimum insurance coverage as prescribed by the Board in Rule 9.2 of these Regulations, and

(3) Fee as prescribed by the Board for a Towing Business Safety License.

B. No Tow Vehicle Safety Permit authorizing operation of a tow vehicle on public roadways in the State of Arkansas shall be issued until a sufficient Tow Vehicle Safety Permit application is filed with the Board. For purposes of these Regulations, a sufficient Tow Vehicle Safety Permit application shall include:

(1) Information Sheet provided by the Board as part of the application completed in its entirety. (Separate Information Sheets are not required when application is for license AND permit(s).)

(2) Inspection Form provided by the Board as part of the application reflecting Rule 7 equipment requirements are met, and that the tow vehicle was examined by a certified law enforcement officer (municipal, county, or state) who so verifies by his/her signature on the Inspection Form, along with Badge # and Agency.

(3) Pictures showing the following views

- (a) The License tag,
- (b) Name and phone number of business, and
- (c) Type of towing equipment such as: Towing apparatus, Dollies, Trailer, .

(4) Tow Vehicle Safety Permit fee prescribed by the Board.

(5) Current Certificate(s) of Insurance reflecting minimum insurance coverage as prescribed by the Board in Rule 9.2 of these Regulations.

C. No showing of public convenience or necessity need be made in support of an application for a towing business safety License and/or a Tow Vehicle Safety Permit.

D. It shall be the responsibility of the Licensee to post Certificate of License in a prominent location, viewable by the public, in the Licensee's place of business.

E. It shall be the responsibility of the Tow Vehicle Safety Permit holder to affix the Tow Vehicle Safety Permit to the lower portion, driver's side, of the windshield in the vehicle for which the Board issued the Permit.

6.4 Licenses and Tow Vehicle Safety Permits are nontransferable, from one owner to another, from one tow vehicle to another.

A. If a Licensee ceases to be involved in the towing business, the License issued to that business shall be returned to the Board within ten (10) days. (Any change in ownership of a towing business nullifies the License issued to the previous owner.)

B. Any Tow Vehicle Safety Permit holder who takes out of service a tow vehicle for which the Board issued a Tow Vehicle Safety Permit shall remove and destroy the Permit, and shall notify the Board the tow vehicle is removed from his fleet with in ten (10) days.

(1) A Tow Vehicle Safety Permit can only be displayed on a tow vehicle owned by the towing business to which the Board issued the Permit.

(2) A Tow Vehicle Safety Permit can only be displayed on the tow vehicle for which the Permit was issued by the Board.

6.5 A towing business License or a Tow Vehicle Safety Permit shall be issued only to a legal entity, and shall not be issued to a fictitious name. E.g., Bob Smith owns a wrecker service. Bob Smith's Wrecker Service **does not** constitute a legal entity. Bob Smith₁ or Bob Smith dba Bob Smith's Wrecker Service₁ or Bob_Smith's Wrecker Service, Inc. **does** constitute a legal entity in that Bob Smith is identified as legal owner of the_wrecker service.

A. Each separate location of a towing business shall require a

B. The name in which a member of the towing industry is registered with the Board must correspond with name of the insured as identified on the Certificate(s) of Insurance issued to the Board for that towing business.

6.6 It is the responsibility of every Licensee and every Tow Vehicle Safety Permit holder to notify the Director in writing immediately upon any change in name of business, mailing address and/or physical location of his place of business.

6.7 Any final judgment rendered by a court of competent jurisdiction against a towing business or an owner or employee thereof, arising from ownership or operation of the towing business, including but not limited to towing, up righting, recovery, transporting and storage of vehicles, must be satisfied within thirty (30) calendar days. If such judgment is not timely satisfied, the towing business's license and/or tow vehicle safety permit(s) may be suspended until the judgment is satisfied; provided,

A. A release or written agreement signed by the judgment creditor and approved by the Board shall reinstate eligibility; and,

B. If judgment is covered by insurance up to the amount and to the extent required by the Board, this subparagraph shall not apply.

6.8 No application for towing business license and/or tow vehicle safety permit shall be approved by the Arkansas Towing & Recovery Board if the applicant has any overdue unpaid civil penalty(s) due and payable to the Board.

RULE 7: EQUIPMENT REQUIREMENTS

7.1 All tow vehicles, which are in use by a member of the towing industry, shall meet the following requirements:

A. Hold a current Motor Vehicle Registration Certificate and have evidence of such properly displayed on the tow vehicle. (E.g., state license plate.)

B. Be in compliance with all Motor Vehicle Laws enacted by the State of Arkansas and all Arkansas State Highway Commission and Arkansas Department of Revenue Regulations applicable thereto.

C. Have a valid Tow Vehicle Safety Permit issued by the Board for that tow vehicle displayed on the lower portion, driver's side, of the tow vehicle's windshield.

7.2 All tow vehicles as defined in these regulations which operate on Arkansas's public roadways shall have the following minimum equipment installed, or on board:

A. Fire Extinguisher(s), ABC Type, total capacity of not less than nine (9) pounds.

B. Amber flashing light(s) visible within 360 degree rotation around the tow vehicle, and visible in bright sunlight.

(C) Tail, turn and stop lights attached, or to be attached, to the towed or towing vehicle so as to be visible from the rear.

(D) Safety chains and/or straps to secure the towed vehicle to the towing vehicle when towing and/or otherwise transporting vehicles on public roadways.

(E) Flares, reflective cones, reflective triangle safety signals, or other similar safety devices.

(F) Shovel and broom for removing debris from the roadway. (Mandatory only for tow vehicles used in accident recovery; provided however, no tow vehicle shall respond to an accident scene along a public roadway without a broom and shovel on board.)

(G) The name and telephone number of the towing business shall be displayed and permanently affixed on each side of the tow vehicle so that it is visible and legible from a distance of fifty (50) feet; (i.e. painted or by decal, magnetic signs not permanently affixed are not allowed).

(H) Light and air brake hookups (required only on tow vehicles being designated “Heavy Duty” for the purpose of these regulations and capable of towing semi truck and trailer vehicles.)

(I) Safety straps for wheel lift equipment as required by the equipment manufacturer for securing the towed vehicle to the towing vehicle.

(J) Tow vehicles equipped with winches and used for recovery and/or hoisting, and for towing a vehicle during transport, shall have a winch with an 8,000 pound minimum capacity and a minimum 3/8 inch diameter cable size, provided,

(1) Winch capacity and cable size shall increase proportionately with Gross Vehicle Weight Rating increase,

(2) Come-A-Long, chain, or other similar device, shall not be used as substitute for winch and cable.

(K) Any tow vehicle used for hoisting and/or for towing a vehicle during recovery and/or transport shall be equipped with dual rear wheels and shall be rated at a minimum of 9,000 pounds GVWR. provided; however, the owner of a tow vehicle for which the Board issued a Tow Vehicle Safety Permit under the Grandfather Provision on or before January 1, 1995, and renewal permits have been issued regularly thereafter, is exempt from the dual wheel and 9,000 GVWR requirements as long as ownership of the tow vehicle does not change and regular renewals continue to be issued by the Board.

(L) (1) Any tow vehicle used as a Heavy Duty Tow Vehicle as defined by

Rule 7.4 shall be equipped with tandem rear axles and equipped with an under-lift device rated at no less than 12,000 lbs. at full extension. Provided; however that the owner of a Heavy Duty Tow Vehicle for which the Board issued a tow vehicle safety permit on or before the date of the enactment of this section shall be grand-fathered and shall be exempt from this requirement as long as ownership of the tow vehicle does not change and regular renewals continue to be issued by the Board.

(2) Any tow vehicle used as a Heavy Duty Vehicle without and under-lift shall not be utilized as a primary tow vehicle for non-consent towing, but may be utilized by a non-consent towing business in conjunction with other services rendered as part of non-consent towing, provided, however, any usage in conjunction with non-consent towing shall have coverage in compliance with the insurance requirements of Rule 9.2 of these Rules and Regulations and must display a current consent Tow Vehicle Safety Permit issued by the Board.

(3) Any tow vehicle used as a Medium Duty Tow Vehicle as defined by Rule 7.4 excluding rollback tow vehicles, shall be equipped with an under-lift device rated at no less than 6500 lbs. at full extension. Provided; however that the owner of a Medium Duty Tow Vehicle for which the Board issued a tow vehicle safety permit on or before the date of the enactment of this section shall be grand-fathered and shall be exempt from this requirement as long as ownership of the tow vehicle does not change and regular renewals continue to be issued by the Board.

(4) Any tow vehicle used as a Medium Duty Vehicle without and under-lift shall not be utilized as a primary tow vehicle for non-consent towing, but may be utilized by a non-consent towing business in conjunction with other services rendered as part of non-consent towing, provided, however, any usage in conjunction with non-consent towing shall have coverage in compliance with the insurance requirements of Rule 9.2 of these Rules and

Regulations and must display a current consent Tow Vehicle Safety Permit issued by the Board.

7.3 It shall be the responsibility of any member of the towing industry and his operators to use all of that business's towing-related equipment knowledgeably and safely.

7.4 For purposes of these Regulations, tow vehicles as defined in these regulations shall be classified as follows:

A. Gross Vehicle Weight Ratings:

Light Duty: 9,000 - 15,000 pounds GVWR.

Medium Duty: 15,001 - 33,000 pounds GVWR.

Heavy Duty: 33,001 pounds and over GVWR. Provided, it is recommended that the owner or operator of any Light Duty, Medium Duty, or Heavy Duty tow vehicle, observe applicable gross vehicle weight ratings (GVWR) when transporting or attempting to transport, vehicles on public roadways of the State of Arkansas.

B. Any vehicle used in conjunction with a trailer, dolly, or other separately hitched towing-related device to transport or otherwise facilitate the movement of vehicles on public roadways is not a "tow vehicle" as defined in A.C.A. 27-50-1202(10). However, the trailer, dolly, or other separately hitched towing-related device must display a current Tow Vehicle Safety Permit issued by the Board, to be located near the front left side of the trailer, dolly, or other separately hitched towing-related device.

(1) Provided, issuance by the Board of a Tow Vehicle Safety Permit for such trailer, dolly, or other separately hitched towing-related device shall not authorize use of that trailer, dolly, or other separately hitched towing-related device to transport or otherwise facilitate the movement of vehicles on public roadways, except when in compliance of the following: Both the vehicle towing such trailer, dolly, or other separately hitched towing-related device and the trailer, dolly, or other separately hitched towing-related device must be in

compliance with all Motor Vehicle Laws enacted by the State of Arkansas and all Arkansas State Highway Commission and Arkansas Department of Revenue Regulations applicable thereto, including but not limited to registration, lighting, and braking.

(2) The vehicle towing such trailer, dolly, or other separately hitched towing-related device shall have liability insurance covering injury and/or damage meeting minimum financial responsibility laws of the State of Arkansas;

(3) The weight distribution on the vehicle towing a trailer, dolly, or other separately hitched towing-related device and on the trailer, dolly, or other separately hitched towing-related device shall be coordinated so that the combination is stable during transport. In the absence of evidence to the contrary, a combination of a vehicle towing a trailer, dolly, or other separately hitched towing-related device shall be considered stable when observing the following weight specifications:

a. The laden weight of the vehicle towing a trailer, dolly or other separately hitched towing-related device shall not exceed the Gross Vehicle Weight Rating (GVWR) of that vehicle;

b. The laden weight of the trailer, dolly, or other separately hitched towing-related device shall not exceed the Gross Trailer Weight Rating (GTWR) of the trailer, dolly, or other separately hitched towing-related device; and

c. No axle of the vehicle towing such trailer, dolly or other separately hitched towing-related device shall have weight in excess of the Gross Axle Weight Rating (GAWR) of that axle.

(4) A trailer, dolly, or other separately hitched towing-related device shall not be utilized as a primary tow vehicle for non-consent towing, but may be utilized by a non-consent towing business in conjunction with other services rendered as part of non-consent towing, provided, however, any usage in conjunction with non-consent towing shall have

coverage in compliance with the insurance requirements of Rule 9.2 of these Rules and Regulations.

7.5 Any member of the towing industry that adds a tow vehicle into service shall, within ten (10) business days:

(A) Notify the Director of the year, make and type (E.g., wrecker, rollback, hauler, etc.)

(B) Send to the Director from the licensee's insurance carrier an amended Certificate of Insurance reflecting the tow vehicle has been added to present coverage.

(C) Have the vehicle inspected pursuant to Rule 6.3(b) of these Regulations.

(D) Submit to the Board a timely application for Tow Vehicle Safety Permit.

7.6 All non-consent towing businesses shall use an invoice for each vehicle towed, each invoice shall explain how all charges were calculated, separately itemizing all fees and charges to owner(s) and lien holders pursuant to A.C.A. 27-50-1208(b)(2), as now or hereafter amended, and shall furnish, upon request, the owner of the towed vehicle, lien-holder, and/or their agent(s) with a duplicate of the said itemized statement, bill or invoice of all charges incurred.

RULE 8: FEES

8.1 All fees collected under Arkansas Code Annotated 27-50-1201 et seq., as now or hereafter amended, and the Rules and Regulations promulgated there to shall be made payable to the Arkansas Towing and Recovery Board. Said fees shall be deposited in the General Operating Fund of the Arkansas Towing and Recovery Board.

8.2 Each application for a towing business safety license shall be accompanied by a license fee of one hundred dollars (\$100). Each application for a tow vehicle safety permit shall be accompanied by a fee of thirty-six (\$36) or three dollars (\$3.00) per permit, per month for remaining months to allow the renewal of a permit to expire at time of Towing Business Safety License resulting in one annual renewal for each operator. Lost or destroyed tow vehicle safety permits will require the purchase of replacement permits at the current permit fee. Once a Towing Business Safety License and/or Tow Vehicle Safety Permit have been issued, fees are non-refundable.

8.3 The initial Towing Business Safety License issued to a member of the towing industry shall expire one year from the date of issuance, and annually thereafter, until such time the business ceases to operate or changes ownership. Licenses are not transferable from one business to another or from one owner to another.

8.4 A. The initial Tow Vehicle Safety Permit issued to a member of the towing industry for a designated tow vehicle shall expire one year from the month in which it was issued, each subsequent permit issued to that operator shall expire in the same month as the initial Towing Business Safety License issued and annually thereafter, until such time the tow vehicle for which the Permit was issued changes ownership or is otherwise removed from service by the business. Tow Vehicle Safety Permits are not transferable from one vehicle to another or from one owner of the vehicle to another.

8.5 The Director shall send renewal application(s) to each licensee and tow vehicle safety permit holder at least thirty (30) calendar days prior to expiration. Any License or Tow Vehicle Safety Permit for which a sufficient renewal application is received later than 5:00 p.m. on date of expiration is subject to fee for late filing. (For purposes of these Regulations, “sufficient applications” for License and Tow Vehicle Safety Permit are defined in Rule 6.3(A)(B).) When a timely application for renewal of a license or tow vehicle safety permit is received by the Board, the existing license and permit subject to renewal shall not expire prior to review of the application by Board staff, provided,

A. Such application reviewed after expiration of a license or permit and found to be sufficient **is not** subject to fee for late renewal application filing.

B. Such application reviewed after expiration of a license or permit and found to be insufficient **is** subject to fee for late renewal application filing, effective upon review.

(1) The business will be notified in writing of any insufficiency(s).

(2) Penalty as provided in Rule 4.3(A)(B) will be assessed from date of notice of insufficiency(s) to the date a sufficient application is received by the Board.

8.6 Any Licensee or Tow Vehicle Safety Permit holder who fails to submit to the Board a timely and sufficient application for renewal of license and/or permit(s), and continues to work in the towing industry, shall be held liable as outlined in A.C.A. 27-50-1101 and 27-50-1201 et seq., as now or hereafter amended, and Rules and Regulations promulgated by the Board pursuant thereto.

RULE 9: INSURANCE REQUIREMENTS

9.1 The provisions of Rule 9 shall apply to those businesses licensed by the Board to engage in towing and related services. All towing businesses licensed under this Act shall obtain, and keep in continuous effect, all insurance coverage required in Rule 9.2, as it applies. Evidence of said insurance shall be filed with the Board in the form of a valid Certificate of Insurance.

A. Said Certificate of Insurance shall be issued to the Arkansas Towing & Recovery Board at its current mailing address.

B. Said Certificate of Insurance shall have not more than a thirty (30) business day notice of cancellation or material change in the policy.

C. Said Certificate of Insurance shall display the physical location of each non-consensual towing impound lot for which coverage is extended

9.2 The minimum coverage provisions insuring the public from loss or damage that may arise to any person or property by reason of the operation of a towing business are as follows:

(A) Each tow vehicle shall have liability insurance covering injury and/or damage, except that to the towed vehicle, for which the tow truck owner is liable. Said coverage shall meet state and federal minimum financial responsibility laws for motor carriers (45CRF387.9).

(B) Each non-consent tow vehicle or consent tow vehicle, used in conjunction with non-consent towing, shall have cargo, on-hook, or similar type insurance in an amount not less than Fifty Thousand Dollars (\$50,000). For purposes of this Rule, on-hook, cargo, or any similar term, is construed to include coverage for losses (property damage) to the vehicle(s) being towed, recovered, up-righted, or transported by the insured, or his agent, where the insured is

liable, whether or not such loss is due to the negligence of the insured or his agent.

(C) Each non-consent towing business shall maintain premises liability insurance in an amount not less than Fifty Thousand Dollars (\$50,000) to cover losses from personal injury and/or property damage incurred in the area in which vehicles impounded by the business are stored.

9.3 Each Licensee shall be responsible for maintaining on file with the Board a valid Certificate of Insurance reflecting current coverage as outlined in Rule 9.2.

9.4 Any Licensee who fails to meet the requirements of Rules 9.1, 9.2 or 9.3 shall have his license immediately suspended by the Board. The Director shall notify the Licensee by mail of the suspension, and shall immediately initiate formal hearing procedures.

RULE 10: CHARGES FOR NOTIFICATIONS

10.1 All Licensees shall comply with the requirements for notification to owners and lien holders as provided by A.C.A. §27-50-1101(a)(3), § 27-50-1208 and §27-50-1209, as amended from time to time. Unless otherwise prescribed by law, any notice required to be given by a Licensee to the registered owner(s) and/or lienholder(s) shall be given to those persons or entities listed as owner(s) and /or lienholder(s) on the records of the Office of Motor Vehicles, Arkansas Crime Information Center records, or the motor vehicle records of any other state if there is reasons to believe the vehicle may be registered in a state other than Arkansas.

10.2 For purposes of the second notice to be given pursuant to Ark. Code Ann. §27-50-1209 not less than thirty (30) days from impoundment but at least fifteen days prior to sale of an unclaimed vehicle, a Licensee shall separately obtain the information as set for in Rule 10.1.

10.3 The charges for sending the notice(s), if any, shall not exceed twenty-five dollars (\$25) per notification. For the purposes of these regulations, the total number of notices required to be sent to the last registered owner(s) and any lien holder(s) of record pursuant to § 27-50-1208(b)(2) and §27-50-1209(d) after taking possession of a vehicle shall constitute a single notification.

10.4 For purposes of these regulations, the notification required to be made pursuant to Ark. Code Ann. §27-50-1208(b)(2) and §27-50-1209(d) each shall constitute a single notification.

Rule 11: Excessive Pricing Regulatory Factors

The Arkansas Towing and Recovery Board may consider the following factors in determining if the pricing is excessive or unnecessary under A.C.A § 27-50-1203(e)(1)(C), and (D).

1. Tow vehicle(s) required and size of tow vehicle(s);
2. Total time to accomplish recovery/tow;
3. Number of regular employees required to safely complete recovery/tow;
4. Number of extra people needed/used to effectively complete recovery/tow;
5. Special equipment required to recover or tow;
6. Location of vehicle recovered/towed;
7. Hazardous materials or cargo recovery involved in recovery/tow;
8. Comparison with reasonable prices in region;
9. Weather conditions;
10. Computation of days of storage: midnight to midnight is presumed to be a reasonable period;
11. Any other relevant information having a direct affect on the pricing of the recovery/tow.

HISTORY

of the RULES AND REGULATIONS

ADOPTED BY THE ARKANSAS TOWING & RECOVERY BOARD

Pursuant to Arkansas Code Annotated 27-50-1201 et seq.

NUMBER ONE: April 14, 1993 Adopted by the “Board” pursuant to Acts 899 of 1989 and 1000 of 1993.
 September 16, 1993 Legal Notice published in Arkansas Democrat.
 October 02, 1993 Public Hearing held in Room 149 of the State Capitol Building.
 October 07, 1993 Reviewed (and accepted) by the Administrative Rules and Regulations Subcommittee of the Legislative Council.
 July 1, 1994 Effective date.

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NUMBER TWO: December 03, 1998 Adopted by the “Board”* pursuant to Acts 899 of 1989, 1000 of 1993 and 250, 381, 392 and 841 of 1997.
 December 30, 1998 Legal Notice published in Arkansas Democrat.
 December 31, 1998 Filed with Bureau of Legislative Research.
 January 30, 1999 Public Hearing held in Room 149 of the State Capitol Building.
 February 02, 1999 “Final” copy filed with Bureau of Legislative Research.
 May 13, 1999 Reviewed (and accepted) by Administrative Rules and Regulations Subcommittee of the Legislative Council.
 July 01, 1999 Effective Date.

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NUMBER THREE: July 28, 1999 Change Adopted by the “Board”* pursuant to Acts 899 of 1989, 1000 of 1993 and 250, 381, 392, and 841 of 1997.
 July 30, 1999 Legal Notice published in Arkansas Democrat/Gazette.
 October 13, 1999 “Final” copy filed with the Bureau of Legislative Research.
 November 01, 1999 Effective Date.

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NUMBER FOUR: October 12, 2001 Change Adopted by the “Board”* pursuant to Acts 899 of 1989; 1000 of 1993; 250,381.392. and 841 of 1997; and 1830 of 2001. under an emergency clause.
 October 12, 2001 Effective Date under the emergency clause.
 October 14, 2001 Legal Notice published in Arkansas Democrat/Gazette
 October 31, 2001 Filed with Bureau of Legislative Research.
 November 15, 2001 Public Hearing held in 2nd Floor Conference Room of the Attorney General’s Office, Tower Building.
 November 21, 2001 “Final” copy filed with the Bureau of Legislative Research.
 December 06, 2001 Reviewed and Accepted by the Administrative Rules and Regulations Subcommittee.
 December 16, 2001 Effective Date under the Administrative Procedures Act.

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NUMBER FIVE:

April 17, 2002	Change adopted by the “Board” * pursuant to Acts 899 of 1989; 1000 of 1993; 250, 381, 329, 841 of 1997; and 1830 of 2001, under the emergency clause.
April 24, 2002	Legal Notice published in Arkansas Democrat/Gazette
April 22, 2002	File with Bureau of Legislative Research.
May 01, 2002	Effective Date under the emergency clause.
May 22, 2002	Public Hearing held in 2 nd Floor Conference Room of the Attorney General’s Office, Tower Building.
May 24, 2002	“ <u>Final</u> ” copy filed with the Bureau of Legislative Research.
June 06, 2002	Reviewed by the Administrative Rules and Regulations Subcommittee.
June 16, 2002	Effective Date under Administrative Procedures Act.

NUMBER SIX:

June 27, 2006	Change adopted by the “Board” * pursuant to Act 899 of 1989; 1000 of 1993; 250, 381, 329, 841 of 1997; 1830 of 2001; and 1807, 1878, 2189, 2211 of 2005.
June 28, 2006	Rule Notice, Financial Impact and Proposed changes filed in electronic format filed with the Arkansas Register
June 29, 2006	Proposed changes filed with the Bureau of Legislative Research.
July 1, 2006	Legal Notice published in the Arkansas Democrat/Gazette.
July 1, 2006	Effective Date under the emergency clause.
August 30, 2006	Public Hearing held in 2 nd Floor Conference Room of the Attorney General’s Office, Towing Building.
September 5, 2006	“ <u>Final</u> ” copy filed with the Bureau of Legislative Research.
September 6, 2006	Reviewed by the Administrative Rules and Regulations Subcommittee.
September 15, 2006	Effective date under the Administrative Procedures Act.

NUMBER SEVEN:

December 04, 2007	Change adopted by the “Board” * pursuant to Act 899 of 1989; 1000 of 1993; 250, 381, 329, 841 of 1997; 1830 of 2001; and 1807, 1878, 2189, 2211 of 2005, 100, 506, 607, 626, 861, 1053, of 2007.
December 05, 2007	Rule Notice, Financial Impact and Proposed changes filed in electronic format filed with the Arkansas Register
December 10, 2007	Financial Impact and Proposed changes filed with the Bureau of Legislative Research.
December 14-16, 2007	Legal Notice published in the Arkansas Democrat/Gazette.
January 01, 2008	Effective Date under the emergency clause.
January 22, 2008	Public Hearing held in 2 nd Floor Conference Room of the Attorney General’s Office, Towing Building.
March 10, 2008	“ <u>Final</u> ” copy filed with the Bureau of Legislative Research.
March 20, 2008	Reviewed by the Administrative Rules and Regulations Subcommittee.
April 04, 2008	Effective date under the Administrative Procedures Act.

***Membership and staff:**

Glenna Butler, Chairperson and Insurance Industry Representative At Large (North Little Rock)

Wayne Edwards, Vice Chairperson and Zone 4 NC Operator Representative (Lake Village)

Mary Thoma, Zone 3 NC Operator Representative (Westfork)

Avon Phillips, Junior, Zone 2 NC Operator Representative (North Little Rock)

Charles "Tad" Bokker, Jr. Zone 1 NC Operator Representative (Forrest City)

E. L. Jacobs, Consent Only Representative At Large (Paris)

Ronnie Walker, Consent Only Representative At Large (Hot Springs)

Darrell Hays, Citizen Representative At Large (Batesville)

Arlon Hickman, Treasurer and Citizen Representative At Large (Harrison)

Cynthia Lauen, Director (Searcy)

April Staggs, Clerical Assistant (Searcy)

Gary Ashcraft, Investigator (Hot Springs)