

**Title 12. Law Enforcement, Emergency Management, and Military Affairs**  
**Chapter V. Division of Arkansas State Police, Department of Public Safety**  
**Subchapter A. Generally**  
**Part 21. Towing Rotation List**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Pursuant to Ark. Code Ann. § 12-8-106(a)(1)(B) & 12-8-106(a)(2)"

**Subpart 1. Generally**

**12 CAR § 21-101. Scope and authority.**

(a)(1) Pursuant to Arkansas Code § 12-8-106(a)(1)(B), each troop shall establish, maintain, and enforce a list of approved towing businesses that shall be requested to tow vehicles to assist in clearing highways of motor vehicles that have been involved in accidents or abandoned.

(2) This list shall be known as the towing rotation list.

(b)(1) This part is promulgated under the authority of Arkansas Code § 12-8-106(a)(2).

(2) To the extent any other law or rule conflicts with Arkansas Code § 12-8-106(a)(2) or this part, Arkansas Code § 12-8-106(a)(2) and this part shall prevail.

(c) Before utilizing the towing rotation list, owner preference shall be offered by the Division of Arkansas State Police to the registered owner, owner's agent, driver, or any competent occupant, if available, of any disabled or inoperative vehicle.

(d) Owner preference may not be offered in those instances of exigent circumstances, including when the occupant or occupants have been physically arrested.

(e) In the interest of public safety, the division reserves the right to utilize the closest company to the scene of an emergency situation where any further delay creates a substantial safety risk.

**12 CAR § 21-102. Minimum requirements.**

(a)(1) Satisfaction of the minimum requirements does not guarantee that a towing business will be placed on the list.

(2) The Troop Commander has discretion to:

(A) Monitor the number and capacity of towing businesses on a list; and

(B) Decline to add a towing business when the list is sufficiently full.

(3) Towing businesses that are declined may reapply the following year.

(b) Any towing business that wishes to be placed on a towing rotation list shall meet the following requirements before being placed on a towing rotation list:

(1)(A) Each towing business shall be:

(i) Approved by the Arkansas Towing and Recovery Board; and

(ii) Licensed to engage in the nonconsent towing business.

(B) Each tow vehicle must have a current tow vehicle safety permit (decal issued by the board) affixed to the windshield;

(2) Each tow vehicle shall display a current vehicle license plate indicating the vehicle is properly registered for gross weight as set forth under Arkansas law;

(3)(A) Each company shall submit a signed, completed copy of the attached Nonconsent Price List.

(B) The towing company shall adhere to this list until a new list is submitted by that company and accepted by the Troop Commander.

(C) The towing company must be able to accept payment at the incident scene, or the next safe location away from the scene, in the form of cash and debit/credit card at a minimum;

(4) Secure area for storage:

(A) Secure fence at least six feet (6 ft.) in height or more secure area subject to the approval of the Troop Commander or his or her designee;

(B) Adequate lighting of the entire storage area; and

(C) Clearly marked with name of towing business;

(5)(A) A towing operator will be ineligible if he or she has one (1) or more of the following convictions:

(i) A felony, Class B or higher;

(ii) A felony, Class D or C within the last seven (7) years;

(iii) A theft-related misdemeanor within the last three (3) years;

(iv) A sex-related misdemeanor within the last five (5) years; or

(v) A violent misdemeanor within the last three (3) years.

(B) A towing operator who has multiple prior misdemeanor convictions will be considered on a case-by-case basis.

(C) The Troop Commander shall have complete discretion when weighing the desire of the towing company to be placed on the list against public confidence in the Division of Arkansas State Police's tow list.

(D) "Towing operator" is defined as a person, firm, corporation, or partnership engaged in the business of providing towing, road service, and storage services for motor vehicles;

(6)(A) Any tow vehicle being utilized by the towing business shall have the name of the towing business permanently affixed to the vehicle.

(B) Magnetic signs shall not be used;

(7) The towing business shall be willing to provide towing, storage, or other related services at all hours;

(8)(A) The towing business shall have a phone number listed in the name of the towing business and, in addition, have a phone number at which the towing business can be contacted after business hours.

(B) During normal business hours, the towing business shall have someone available at the business for administrative matters, and for the release of motor vehicles or other related items stored at the request of the division.

(C) After normal business hours, a person shall be on-call to provide said services;

(9)(A) The towing business shall provide reasonable accommodations for after-hour release of stored vehicles or the release of personal property, in accordance with Arkansas Code § 27-50-1208, in stored vehicles or other related storage.

(B) Once the division releases any hold on personal property not affixed to the towed vehicle, the towing company, unless they can show just cause, shall release personal property to the rightful owner.

(C) Nothing herein shall be construed to require a towing business to forfeit or relinquish its possessory lien as established under Arkansas law; and

(10)(A) A towing business owner may not own a second wrecker company within the same towing zone.

(B) Two (2) or more towing businesses in the zone cannot share:

(i) An address;

(ii) Offices; or

(iii) A storage facility.

(C) Each towing business must have at least one (1) primary towing operator assigned to the business who does not tow for any other towing business.

### **12 CAR § 21-103. Rotation list compliance requirements.**

(a)(1) If a towing business becomes unavailable to take calls for any period of time, it shall notify the respective troop communications center.

(2) That towing business shall be removed from the troop rotation list for the requested period of time.

(3) The business may be permanently removed from the towing rotation if there are repeated instances of being unavailable.

(b)(1) A towing business owner is responsible for notifying the Troop Commander of any changes to the business, including, but not limited to:

(A) Change of address;

(B) Ownership status;

(C) Wreckers;

(D) Condition of wreckers;

(E) Drivers; or

(F) Any new circumstances of a driver.

(2) Failure to do so may result in removal from the towing list.

(c) No towing business shall accept a service call if the tow vehicle operator is under the influence of any substance that could cause impairment.

(d)(1) Towing businesses on the towing rotation list shall not respond to the scene of a crash unless requested by the Division of Arkansas State Police or other law enforcement authority.

(2) If contacted by a private party to respond to an accident, the towing business shall contact the troop communications center to advise the division of the request before proceeding to the scene.

(3) The towing business must be able to provide the name and number of the caller, upon request.

(e) Towing operators soliciting "owner's request" when responding as a first responder to any scene requiring a towing service may result in immediate suspension from the tow list.

(f)(1) A towing business shall accept calls on a twenty-four-hour per day basis.

(2) A towing business shall not screen calls to accept only the most profitable, convenient ones.

(g) A towing operator shall be prepared to transport up to one (1) motorist or passenger involved in an incident if necessary.

(h)(1) Each towing business shall maintain a record or ledger of all vehicles towed at the direction of the division.

(2) This record or ledger shall contain the following information:

(A) Date, time, and location of the tow;

(B) Description of vehicle being towed with VIN and license plate number;

(C) Name of tow vehicle operator; and

(D) Location to which the vehicle was towed.

(i)(1) Towing businesses shall remove all glass, vehicle parts, or other substances or debris dropped or spilled from the entire incident scene prior to leaving the incident scene.

(2) The towing business is responsible for cleaning the entire incident scene, including removal of any nonhazardous materials.

(3) This cleanup shall be divided among the responding tow companies in incidents that require more than one (1) company to respond.

(j)(1) In cases where recovery and/or cleanup efforts last for extended periods of time (more than one (1) hour), the towing company shall be responsible for managing traffic flow through the affected area.

(2) The towing company shall take reasonable steps to ensure the safe and efficient flow of traffic.

**Codification Notes.** "VIN" means vehicle identification number.

**12 CAR § 21-104. Rotation list types.**

(a) Each Troop Commander shall establish the towing zones within the respective troop.

(b) Each troop headquarters shall establish two (2) towing rotation lists as follows:

(1)(A) Light-duty towing rotation list.

(B) To be placed on the light-duty towing rotation list, a business must have the following equipment:

(i) Towing businesses are required to have a rollback wrecker;

(ii) At the time of the call, if the business does not have the equipment necessary to successfully tow the vehicle, they must let the troop communications center know; and

(iii) If a towing business does not have the equipment required for a particular call, the next available towing business having such equipment shall be called, forfeiting that call rotation.

(C)(i) A towing business shall arrive within thirty (30) minutes or less from receipt of the call, with the appropriate equipment and capable towing operator.

(ii) The thirty-minute timeframe will be waived, within reason, for incidents that occur in extreme rural areas or when the towing operator experiences other delays (another crash on the route, traffic blocked, etc.) outside of the operator's control.

(iii) It is the responsibility of the towing business to let the troop communications center know if there is a delay and the reason for it; and

(2)(A) Heavy-duty tow vehicles.

(B) To be placed on the heavy-duty towing rotation list, a towing business shall have available the following equipment:

(i) A heavy-duty truck, equipped with an under-lift device for connecting to the vehicle to be towed; and

(ii) Access to other towing equipment (another wrecker service) to clean up major accidents, including, but not limited to, grain, logs, sand, gravel, cargo, etc.

(C)(i) For purposes of this requirement, the towing business need not own or operate the equipment itself, but the towing business shall have a written agreement with a competent business within the same towing zone with which it may contract for services on a twenty-four-hour basis.

(ii) Any towing business contracting for cleanup services under this requirement shall be responsible for any damages inflicted by its contractor as if it were performing the services itself.

(D)(i) The tow vehicle utilized for calls from the heavy-duty tow vehicle rotation list shall be dispatched immediately upon request by the troop headquarters.

(ii) If a heavy-duty tow vehicle cannot be in route within twenty (20) minutes from the time the request for services is made, the Division of Arkansas State Police shall move to the next towing business on the heavy-duty towing rotation list.

(iii) A towing business that is unable to respond shall forfeit that particular call rotation.

**12 CAR § 21-105. Rates and charges requirements.**

(a) A towing business receiving calls from the Division of Arkansas State Police:

(1) Shall not charge fees in excess of those provided and agreed upon in writing by the towing business to the troop headquarters; and

(2) Shall not charge for the use of equipment and/or personnel not reasonably necessary to perform the requested services in a timely and professional manner.

(b) Storage fees shall be determined by industry standards and shall be included in the list of fees provided and agreed upon in writing by the towing business to the troop headquarters.

(c) A towing business shall not charge greater fees for answering calls by the division than they do for owner preference calls.

(d) Any towing business exceeding its prices provided to the troop headquarters or using unnecessary services to increase its fees shall be subject to permanent removal from the towing rotation list by the Troop Commander, at his or her discretion.

**12 CAR § 21-106. Complaints and removal from rotation.**

Complaints made against a towing business on a towing rotation list shall be handled as provided below, with the discretion of the Troop Commander:

(1)(A) Minor infractions include but are not limited to:

(i) Response times exceeding normal response times;

(ii) Self-dispatching to crashes;

(iii) Being rude/disrespectful to dispatchers, troopers working crashes, and/or drivers at crash scenes;

(iv) Arriving at crashes unprepared to be effective; or

(v) Any other minor infraction reported to and substantiated by the Troop Commander.

(B) These may be subject to suspension of rotation or rotations;

(2)(A) Major infractions include but are not limited to:

- (i) Failing to meet rules established for nonconsent towing by the Arkansas Towing and Recovery Board;
- (ii) Repeated complaints;
- (iii) Dishonest, fraudulent, or false statements made to the Division of Arkansas State Police;
- (iv) Repeated failure to follow these rules; or
- (v) Other major infractions reported to and substantiated by the Troop Commander.

(B) These may be subject to permanent removal from the rotation list; and

(3)(A) If a complaint against a towing business is related to the amount charged for the services provided, the towing business shall bear the burden of demonstrating the reasonableness of the charge.

(B) If this complaint is substantiated the towing business may be subject to suspension or removal from the towing list at the Troop Commander's discretion, dependent on the severity of the unreasonableness of the charge.

**12 CAR § 21-107. Towing business complaints against the Division of Arkansas State Police.**

(a)(1) The towing business owner or designated agent shall submit the complaint in written form, with the original being sent to the respective Troop Commander.

(2) It shall include the following:

(A) The specific nature of the complaint, including a detailed recitation of the facts upon which the allegation is based;

(B) The name or identity of the Division of Arkansas State Police employee who has engaged in the alleged conduct that has given rise to the complaint; and

(C) Any supporting documentation that would establish a basis for the complaint.

(b)(1) If the complaint is based upon an allegation of missed tow rotation calls or inequitable assignment, the towing business owner or designated agent shall first examine the troop headquarters records before filing a formal complaint.

(2) This will provide both the division and towing business the opportunity to correct inadvertent omissions in tow assignments.

(3) If no resolution is reached, the Troop Commander shall review the complaint information and render a decision.

(c) If the complaint is against an officer, the complaint will follow the normal course of citizen complaints.