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Transportation, Dept. of

Motor Carrier

Chapter 1: Motor Carriers

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Wyoming Department of Transportation
Motor Carriers

CHAPTER 1

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 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 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.

(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 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).

(d) “Letter of authority” or “order” means a document issued under this act by the Department, granting intrastate authority to a person to operate a motor vehicle as a motor carrier transporting persons or property.

(e) “Nonconsensual 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.

(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.

(h) “Tow” means to pull or haul a vehicle with a recovery vehicle or tow truck 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.

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.

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

(c) All required notices mailed to a carrier shall be presumed received if mailed 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 keeping 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 “rollbacks.”

(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.

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

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

(B) Individual boom capacity of not less than 8,000 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 8,000 pounds, as rated by the manufacturer with at least 100 feet of 3/8 inch cable drum.

(D) A manufactured under-lift with a retracting 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.

(E) Dual rear wheels.

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

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

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

(B) An individual boom capacity of not less than 24,000 pounds when retracted.

(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.

(D) A wheel underlift tow rating of at least 20,000 pounds and a lift rating of at least 9,000 pounds when retracted.

(E) Light and air-brake hookups.

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

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

(A) A gross vehicle weight rating of at least 35,000 pounds.

(B) A double boom capacity of not less than 20,000 pounds each or a single boom capacity of not less than 40,000 pounds.

(C) A winch capacity of not less than 40,000 pounds equipped with at least 175 feet of 9/16-inch independent wire cable.

(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 tandem axle drive or super single tires and wheels with tandem axle drive.

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

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

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

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

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

(A) A minimum gross vehicle weight rating (GVWR) of not less than 12,000 pounds;

(B) Not less than an 8,000 pound winch, as rated by the manufacturer, with at least 50 feet of 3/8 inch cable or larger; 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 one red light, or a combination of red and blue lights, visible from all sides when in operation. These lights shall be used only as authorized by W.S. 31-5-928(g).

(B) At least two high-intensity amber lights contained in a light bar or display a revolving amber light, 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’s operator.

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

(i) All safety equipment prescribed by the U.S. Department of Transportation Safety Regulations within C.F.R. 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) A trailer used as a 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);

(B) When pulled by a power unit in a recovery operation, the power unit shall meet the lighting and safety requirements outlined in subsections 5(c) and 5(d); and

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

(vi) 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 shall be operated in compliance with all traffic laws and regulations.

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

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

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

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

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

(vii) 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. Passengers from these vehicles being transported in the tow and recovery vehicle shall be considered authorized.

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

(f) Nonconsensual towing and recovery

(i) All nonconsensual towing and recovery practices shall be in accordance with these rules and regulations of the Department, all applicable state and federal laws and regulations, and the Wyoming Highway Patrol's *Non Consensual Towing and Recovery Procedures* (incorporated by reference).

(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)777-4282.

(g) Application for letter of authority.

(i) Before performing a tow and recovery service as a private or contract motor carrier, the owner or lessee of the tow and recovery vehicle shall apply for and receive

letters of private and contract authority from WYDOT. 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 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, described in Section 6(e)(f) of this rule, the Department shall cause an annual inspection between January 1 and June 30 to determine the condition of the tow and recovery vehicle and its equipment. 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 vehicles not meeting rule requirements at the annual inspection or under inspections found in Section 6(e)(5) of this rule 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.

(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 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.) 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 the 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.) 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, a certified copy, or a photocopy of the lease in each vehicle covered by the lease so that it may be available for inspection by Department representatives or other authorized persons.

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

(c) (Regulation of Equipment Leasing.) When it appears that a carrier and a 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 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 or take whatever action it deems 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. 390.5, to comply strictly with:

(i) All Wyoming laws pertaining to safe operation and such rules and regulations promulgated by the Wyoming Department of Transportation.

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

(iii) The following motor carrier safety regulations of the United States Department of Transportation: 49 C.F.R. Parts 40, 303, 325, 350, 355, 356, 360, and 365 through 399 for interstate transportation and as amended in the appendix 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 to inspect and copy any accounts, books, records, and 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.

(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.

(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.

(a) For-hire motor carriers shall 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 consignor and 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. 177.817 as adopted by the Department. The requirement for intrastate private carriers shall be governed by the appendix to these rules and regulations.

Section 11. Hearings and Appeals.

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 to Chapter 1, Motor Carriers

This appendix consists of Wyoming-specific cross-references, changes, omissions, and additions to 49 C.F.R. 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 its duly designated agents, including the Wyoming Highway Patrol 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 motor vehicle” means as defined in W.S. 31-18-1.

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 directs any motor carrier seeking relief from Section 395.3(b) to contact the Wyoming Highway Patrol in writing to request such relief.

The Wyoming Department of Transportation 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;