

Readopt Saf-C 9401, effective January 31, 2023 (Doc.# 13550, Emergency) cited and to read as follows:

CHAPTER Saf-C 9400 STATE POLICE TOW LIST

Statutory Authority: RSA 106-B:27, IV

PART Saf-C 9401 SCOPE

Saf-C 9401.01 Applicability. This chapter applies to all wreckers, tow business, and emergency road service organizations who wish to be on the division of state police tow list pursuant to RSA 106-B:26 et. seq, and these rules.

Readopt with amendment Saf-C 9402, effective January 31, 2023 (Doc. #13550, Emergency), to read as follows:

PART SaF-C 9402 DEFINITIONS

Saf-C 9402.01 “Commissioner” means the commissioner of the New Hampshire department of safety or designee.

Saf-C 9402.02 “Department” means the department of safety.

Saf-C 9402.03 “Designee of the department of safety” or “agent of the department of safety” shall mean a person who has been designated by the commissioner or the colonel.

Saf-C 9402.04 “Director” means the director of the division of state police within the department of safety or designee. This term includes “colonel”.

Saf-C 9402.05 “Division” means the division of state police as set forth in RSA 21-P:7.

Saf-C 9402.06 “Heavy duty wrecker” means “heavy duty wrecker” as defined in RSA 106-B:28, I.

Saf-C 9402.07 “Light /medium duty wrecker” means “light/medium duty wrecker” as defined in RSA 106-B-28, II.

Saf-C 9402.08 “Recovery vehicle” means a “recovery vehicle” as defined in RSA 106-B:28, III.

Saf-C 9402.09 “Rollback carrier” means “rollback carrier” as defined in RSA 106-B:28, IV

Saf-C 9402.10 "Tow business" means “tow business” as defined in RSA 106-B:28, V.

Saf-C 9402.11 "Tow list" means “tow list” as defined in RSA 106-B:28, VI.

Saf-C 9402.12 “Vehicle storage area” means “vehicle storage area” as defined in RSA 106-B:28, VII.

Saf-C 9402.13 “Wrecker” means “wrecker” as defined in RSA 106-B:28, VIII.

Readopt Saf-C 9403 and Saf-C 9404, effective January 31, 2023 (Doc. #13550, Emergency), to read as follows:

PART SaF-C 9403 USE OF TOW LIST

Saf-C 9403.01 Use of Tow List. In the event the division seeks to tow or remove any vehicle, whenever practicable, the tow business responsible for such towing or removal shall be chosen from a tow list in accordance with RSA 106-B:26 et seq., and this chapter.

Saf-C 9403.02 Tow Lists.

(a) The division shall maintain separate tow lists by town for each of the following categories of wreckers:

- (1) Light/medium duty;
- (2) Heavy duty; and
- (3) Emergency road service.

(b) A tow business, authorized by these rules and applicable statutes, shall appear only once on each tow list, under the name of the business submitted at the time of application.

(c) Pursuant to RSA 106-B:27, III, the tow list shall include notations identifying businesses that maintain recovery vehicles or any other specialized equipment, as identified by the tow business in their application.

PART Saf-C 9404 APPLICATIONS FOR PLACEMENT ON TOW LIST

Saf-C 9404.01 Tow Business Application.

(a) Any tow business owner that wishes for their tow business to be placed on the tow list is subject to the requirements for placement as described in RSA 106-B:30 and shall complete and submit form DSSP 455, "New Hampshire Tow List Tow Business Application", revised 1/2023 by email to nhsptowlist@dos.nh.gov, or by mail to the following address:

New Hampshire State Police
ATTN: State Police Communications Commander
33 Hazen Drive
Concord, N.H. 03305.

(b) The tow business shall also submit the following documentation with form DSSP 455, as revised 01/2023:

- (1) Proof of current tow and hook, liability, and garage-keeper's liability insurance as set forth in RSA 106-B:30, XVI;

- (2) A copy of the current New Hampshire certificate of good standing from the secretary of state;
- (3) A copy of the current federal motor carrier safety administration's registration, as applicable;
- (4) Current list of all rates for services the tow business performs related to towing and storage of vehicles on business letterhead;
- (5) A completed form DSSP 456, "New Hampshire Tow List Personnel Roster", revised 01/2023; and,
- (6) A completed form DSSP 457, "New Hampshire Tow List - Individual", revised 01/2023, for each tow truck operator, owner and manager of the business, and any supervisors of the tow business.

(c) The DSSP 455 application shall be signed by the tow business owner under the penalties of unsworn falsification pursuant to RSA 641:3. By signing the DSSP 455, "New Hampshire Tow List Business Application", revised 01/2023, the signatory is certifying that:

- (1) The information on the application and attachments is true and accurate; and
- (2) The applicant shall comply with all applicable federal and state laws, rules, and regulations.

Saf-C 9404.02 Individual Form, DSSP 457.

(a) Pursuant to Saf-C 9404.01(b)(6), every application by a tow business to be placed on the division's tow list, shall be accompanied with a completed DSSP 457, "New Hampshire Tow List – Individual", revised 01/2023 for each of the businesses':

- (1) Tow truck operator;
- (2) Tow business owner;
- (3) Tow business manager; and
- (4) Tow business supervisor.

(b) The DSSP 457 form, revised 01/2023, shall be completed by the individual operator, owner, manager or supervisor and signed by the individual under penalties of unsworn falsification pursuant to RSA 641:3. By signing the DSSP 457, "New Hampshire Tow List – Individual", revised 01/2023, the signatory is certifying that the information on the application is true and accurate.

Saf-C 9404.03 Review of Applications.

(a) All tow business applications shall be reviewed by the division in accordance with RSA 541-A:29.

(b) Applicants shall be notified of any apparent errors or omissions and allowed to resubmit the application forms to the division.

(c) In the event an applicant fails to comply with applicable statutes or rules, the application shall not be processed and the applicant shall be notified of the reason(s) for the rejection.

Saf-C 9404.04 Authorization for Placement on Tow List.

(a) A tow business shall be placed on the division tow list by town when the applicant:

- (1) Submits a completed application, in accordance with RSA 106-B:30 and these rules;
- (2) Meets the requirements for placement pursuant to RSA 106-B:30; and
- (3) Is not disqualified by any of the requirements to remain on the tow list pursuant to RSA 106-B:31.

(b) Pursuant to RSA 106-B:29, IV, placement on the tow list shall be by order of application and a new tow business, when authorized, shall be placed on the bottom of the applicable tow list.

Readopt with amendment Saf-C 9405 through Saf-C 9407, effective January 31, 2023 (Document #13550, Emergency), to read as follows:

PART Saf-C 9405 MISCELLANEOUS

Saf-C 9405.01 Annual Certification.

(a) An owner of a tow business on the division tow list shall complete and submit form DSSP 458, "New Hampshire State Police Tow List Annual Certification", revised 01/2023, on or before January 15 of each year.

(b) The owner shall sign the completed DSSP 458, revised 01/2023 under penalty for unsworn falsification pursuant to RSA 641:3. By doing so, the signatory shall certify that it has conducted an internal inspection of the tow business and its employees and that the business is in compliance with the provisions of RSA 106-B:26 et. seq. and these rules.

(c) The DSSP 458, revised 01/2023, may be submitted by email at nhsptowlist@dos.nh.gov, or by mail to the following address:

New Hampshire State Police
ATTN: State Police Communications Commander
33 Hazen Drive
Concord, N.H. 03305.

Saf-C 9504.02 Change in Ownership of Business.

(a) Pursuant to RSA 106-B:30, in the event the tow business ownership changes, the tow business shall submit a new application pursuant to Saf-C 9404 and receive approval prior to the effective date of the change of ownership. If the tow business fails to obtain approval prior to the effective date of the change of ownership, the tow business shall be removed from the division's tow list.

(b) Written notification may be made by email at nhsptowlist@dos.nh.gov, or by mail to the following address:

New Hampshire State Police
ATTN: State Police Communications Commander
33 Hazen Drive
Concord, N.H. 03305.

Saf-C 9405.03 Change of Tow Business Operator, Manager or Supervisor.

(a) Pursuant to RSA 106-B:30, V, when a tow truck operator, manager or supervisor ceases employment at the tow business, the tow business shall notify the division in writing within 10 days and include an updated application form, DSSP 455, "New Hampshire Tow List Tow Business Application", revised 01/2023, and form DSSP 456, "New Hampshire Tow List Personnel Roster", revised 01/2023 only.

(b) If the tow business hires a new tow truck operator, manager or supervisor, the tow business shall notify the division in writing within 10 days and include an application:

- (1) Form, DSSP 455, "New Hampshire Tow List Tow Business Application", revised 01/2023;
- (2) Form DSSP 456, "New Hampshire Tow List Personnel Roster", revised 01/2023; and
- (3) Form DSSP 457, "New Hampshire Tow List Individual", revised 01/2023.

(c) Written notification may be made by email at nhsptowlist@dos.nh.gov, or by mail to the following address:

New Hampshire State Police
ATTN: State Police Communications Commander
33 Hazen Drive
Concord, N.H. 03305.

Saf-C 9405.04 Change of Rates for Services.

(a) Pursuant to RSA 106-B:30, XVIII, when a tow business changes the rates for services it performs related to towing and storage of vehicles, it shall provide written notification to the division on the business' letterhead and shall provide the division the current list of charges within 10 days of the price change.

(b) Written notification may be made by email at nhsptowlist@dos.nh.gov, or by mail to the following address:

New Hampshire State Police
ATTN: State Police Communications Commander
33 Hazen Drive
Concord, N.H. 03305.

Saf-C 9405.05 Other Reporting Requirements.

- (a) A tow business shall provide written notification to the division within 10 days if:
- (1) The tow business' tow and hook, liability, and garage-keeper's liability insurance is suspended or revoked;
 - (2) The tow business is no longer in good standing with the New Hampshire secretary of state; or
 - (3) The tow business' federal motor carrier safety administration's registration is suspended or revoked.

(b) Written notification may be made by email at nhsptowlist@dos.nh.gov, or by mail to the following address:

New Hampshire State Police
ATTN: State Police Communications Commander
33 Hazen Drive
Concord, N.H. 03305.

Saf-C 9405.06 Recordkeeping Requirements.

- (a) Tow businesses shall maintain all records required by law.
- (b) The retention period for records required to be maintained pursuant to RSA 106-B:31, VI and RSA 106-B:32 shall be the year the record was made and full year beyond.
- (c) All records and equipment required to be maintained by the tow business shall be made open to the inspection of the designee of the department during normal business hours.

PART Saf-C 9406 NON-COMPLIANCE

Saf-C 9406.01 Disciplinary Action.

- (a) If a tow business or tow operator is found to be in violation of RSA 106-B:26 et seq., these rules, or any other relevant laws and regulations, the colonel shall resolve the violation of the tow business or operator in one of the following ways:
- (1) No action;
 - (2) Verbal reprimand;

- (3) Written reprimand;
- (4) Suspension from the tow list for a period not to exceed 120 days; or
- (5) Removal from the tow list for a period not to exceed 2 years.

(b) In deciding whether to impose disciplinary action and in imposing the level or duration of disciplinary action against the business or operator, the colonel shall consider the factors in (c) below in order to ensure the integrity and efficiency of the tow list and the duties and responsibilities of those authorized to be on the tow list.

(c) The colonel shall consider the following factors in determining the appropriate disciplinary action:

- (1) The seriousness of the offense or noncompliance;
- (2) Prior disciplinary record;
- (3) Willingness to cooperate with the division;
- (4) Evidence of deliberate noncompliance;
- (5) The potential or resulting harm to the motoring public; and
- (6) Any mitigating or extenuating circumstances.

(b) Pursuant to RSA 106-B:31, XIV, prior to being removed from the tow list for disciplinary reasons, the division shall send written notice of intent describing the reasons, and notification that the tow business or tow operator may request a hearing, pursuant to Saf-C 9407.

PART Saf-C 9407 HEARINGS

Saf-C 9407.01 Hearings.

- (a) Any tow business denied authorization may request a hearing with the bureau of hearings.
- (b) A tow business may appeal any disciplinary action by the division to the bureau of hearings, pursuant to RSA 106-B:31, XIV or RSA 106-B:34.
- (c) Any request for a hearing shall be made to:

Department of Safety
ATTN: Bureau of Hearings
33 Hazen Drive
Concord, NH 03305

- (d) All administrative hearings shall be conducted in accordance with the provisions of Saf-C 200.

Saf-C 9407.02 Appeals. Any appeal of a removal or disciplinary action hearing may be appealed to the superior court pursuant to RSA 106-B:31, XIV.

Readopt with amendment and renumber Saf-C 216, effective August 15, 2013 (Doc. #10395-B), as Saf-C 9408 to read as follows:

PART Saf-C 9408 HEARINGS TO CONTEST VEHICLE REMOVAL

Saf-C 9408.01 Scope. This part allows an individual, whose vehicle has been removed from its location and stored at another by an authorized official, to request a hearing to contest the removal.

Saf-C 9408.02 Definition.

(a) “Authorized official” means any police employee of the division of state police or authorized employee of the department.

Saf-C 9408.03 Form of Request for Hearing.

(a) Each request for a hearing shall be in writing and contain the following information:

- (1) Name, address, and telephone number of person requesting the hearing;
- (2) Make and registration of vehicle in question;
- (3) Date and time vehicle was removed from its location;
- (4) Location of vehicle after removal;
- (5) Name of authorized officer involved, if known; and
- (6) Reason for contesting the removal.

(b) All requests for hearings shall be addressed to:

Department of Safety
 ATTN: Bureau of Hearings
 33 Hazen Drive
 Concord, NH 03305

Saf-C 9408.04 Time of Request. All requests for hearing shall be received within 15 days of the towing and impoundment.

Appendix

Rule	Specific Law the Rule Implements
Saf-C 9401.01	RSA 106-B:26
Saf-C 9402.01	RSA 541-A:7
Saf-C 9402.02	RSA 541-A:7
Saf-C 9402.03	RSA 541-A:7
Saf-C 9402.04	RSA 541-A:7

Saf-C 9402.05	RSA 541-A:7
Saf-C 9402.06	RSA 106-B:28, I
Saf-C 9402.07	RSA 106-B:28, II
Saf-C 9402.08	RSA 106-B:28, III
Saf-C 9402.09	RSA 106-B:28, IV
Saf-C 9402.10	RSA 106-B:28, V
Saf-C 9402.11	RSA 106-B:28, VI
Saf-C 9402.12	RSA 106-B:28, VII
Saf-C 9402.13	RSA 106-B:28, VIII
Saf-C 9403	RSA 106-B:27
Saf-C 9404.01	RSA 106-B:30 and RSA 541-A:19-b
Saf-C 9404.02	RSA 106-B:30, III and RSA 541-A:19-b
Saf-C 9404.03	RSA 541-A:29
Saf-C 9404.04	RSA 106-B:29, IV and RSA 106-B:30
Saf-C 9405.01	RSA 106-B:31, XII
Saf-C 9405.02	RSA 106-B:30, VI
Saf-C 9405.03	RSA 106-B:30, V
Saf-C 9405.04	RSA 106-B:30, XVIII
Saf-C 9405.05	RSA 106-B:30
Saf-C 9405.06	RSA 106-B:31, VI and RSA 106-B:32
Saf-C 9406	RSA 106-B:31, XIII; RSA 106-B:34
Saf-C 9407	RSA 106-B:31, XIV and RSA 106-B:34
Saf-C 9408.01 and Saf-C 9408.02	RSA 541-A:7
Saf-C 9408.03 and Saf-C 9408.04	RSA 262:33