

Virginia Board for Towing and Recovery Operators

March 25, 2008 - 9:00 AM

Department of Motor Vehicles, 7th Floor Conference Room (702)
2300 West Broad Street, Richmond, Virginia 23220

Final Minutes

Virginia Board for Towing and Recovery Operators was held on March 25, 2008 at the Department of Motor Vehicles Headquarters, 2300 West Broad Street, Richmond, Virginia.

Board Members present:

Ray Hodge, Chairman

Roy Boswell

Charlie Brown

Cary Coleman

Ray Drumheller

Woody Herring

Mark Sawyer

Randy Seibert

Gary Teter

Jeff Davis

Andres Alvarez (designee of the Commissioner of Agriculture and Consumer Services)

Colonel Robert Northern

Other Members present:

Captain Steve Chumley

Lt. Curtis Hardsion

Board Members absent:

Ron Minor

Vinay Patel

Staff present:

Benjamin Foster, Board Executive Director

Daphane Phillips, Administrative Assistant

Jo Anne Maxwell, Esq., Senior Assistant Attorney General

Victoria Simmons, Regulatory Coordinator

Called to order

Chairman Ray Hodge called the meeting to order at 9:17 a.m.

Acceptance of December 11, 2007 Board Minutes

Chairman Hodge asked the members if they reviewed the minutes from the last meeting. Seeing no questions, Chairman Hodge called for a motion to approve. A motion was made by Gary Teter Coleman and seconded by Roy Boswell. The minutes were adopted unanimously.

Public Comment:

Dave Adams: “If the regulations were in place when their businesses started, he wondered if they would have ever gotten started.”

George Philbates: “He was concerned about the rates that the board has set. He thinks that the standard rate should be \$150.00 dollars.” He expressed concern that the small wreckers would be forced out of business. On the issue of the criminal record checks, this speaker stated that the board should accept any type of checks currently being done and not require anything new. This speaker objected to the way the board proposed the use of a year-long grandfather clause and asked why someone who has been driving for 15-20 years have to take training. The speaker stated that AAA towing should not be considered public towing but private towing.

Lee Bowman: This speaker stated that the towers in Augusta County knew about the board and its regulations but Rockingham County had not yet gotten the word out. This speaker stated that insufficient notice had been given to the industry.

Terry Wood: “When the board started, the standard was set at minimum guidelines. He thinks the board should stick with the original plan that they started with.”

Robert Layman: “He has a problem with the way the board got started. The board was started because of someone of importance got towed, and she called her husband of importance.” This speaker stated his opinion that the board has not solved any problems. His insurance company already requires qualifications, background checks, and training. This speaker stated that we need a towing and disposal board that enforced the laws that we already have.

Keith Teeter: “He likes for the board to think of the little guys, and agrees that the board needs to retrain the towers.” He asked the board to use its common sense. He said the

training was helpful but the fees are too high and the background checks should be kept affordable.

Jason Pence: “The State Police have testified that fingerprints are not needed in order to do background checks for weapon permits, so why are they necessary for this permit. The board needs to look at the big picture.” If customers have been complaining about costs, this speaker said he expected that there will be an onslaught of complaints as a result of fee increases needed to cover the board’s fees and costs. This speaker thanked the board for its service to the industry.

Floyd Mayes: “Its challenge is to meet the needs of both the board and the towers.” This speaker stated that he wanted to see the industry stay healthy and strong. This speaker stated that there are regional authorities that work well. With regard to the education requirements, this speaker stated that the trainers that conduct the education seem to make a lot of money but he has not seen that it makes a great deal of difference in the industry.

He suggested:

- 1). Set the guidelines and let the towers get regulated.

Chairman Hodge closed the public comments session at 9:49 a.m.

Introduction of the Honorable Charles W. Carrico, Sr.:

“The board was formed with the best of intentions, it was formed so that the towers can regulate themselves rather than being regulated by the General Assembly and the towers think that the board was formed to put the small towers out of business but that is not true. He wanted to address the fact that this industry wanted to put these regulations off until January 2010. He agrees that there is a lot of work to be done and the board has a lot of work to do, and it’s a work in process and it needs to be taken slow, with baby steps, so that all interests can be balanced. He would be happy to work with the board in every way possible for the towing industry.”

The Honorable Charles W. Carrico, Sr. opened the floor for questions.

Mrs. Vicki Simmons asked if house bill 707 was passed as of today? He stated that as of this morning, the Governor has not signed the bill.

Chairman’s Report:

Mr. Hodge thanked everyone for attending the days meeting and he welcomed the new member Mr. Jess Davis to the board.

Mr. Brown submitted a plan for 2008 meetings to Mr. Hodge. He wants the board to have at least seven meetings between May and October 2008 at different locations around the state, and he chose the following locations in an attempt to minimize travel for the public and the board: Abingdon, Charlottesville, Manassas, Richmond, Roanoke, South Boston and Virginia Beach.

Committee Reports:

Licensing and Regulatory Affairs Committee

Chairman Brown gave an overview of the committee meeting; Mrs. Simmons gave an overview on how the regulatory process worked in regard to the proposed regulations. Ms. Simmons reviewed what tasks the board needed to do at this point and the next regulatory steps that this would lead to.

Education Ad Hoc Committee

Mr. Minor was absent. Mr. Foster had spoken with him and he will be working with a representative of a community college concerning a jurisprudence examination for the towers.

Administrative Affairs Committee

Mr. Herring gave a brief overview of the last meeting. The committee wanted Mr. Foster to have a member of this committee to sign off on all credit card purchases that the board receives and the committee voted for Mr. Herring to sign to be the member. Mr. Herring also reported on this committee's unsuccessful efforts to hire new staff members. They will keep working on this task.

By- Laws and Policy Committee:

Did not meet

Communications Committee:

Mr. Coleman stated that the committee devised a plan to get the word out to the towers who have not responded to the board.

- 1). There is going to be a list of the names of the board members in the Footnotes & Tow Times publications
- 2). They are going to insert contact cards in all of the Footnotes publications.

3). the board will be updated about the towers who submit contact cards on a monthly basis with all the boards' news.

4). they will approach the Footnotes publication about running a full page ad.

5). this committee's members reviewed proposals from three public relations (PR) firms, and they did not recommend hiring such a firm. However, if the board decides to hire a PR firm, they would recommend **Touch Points Public Relations** as the firm to utilize.

Mr. Hodge appointed Mr. Jeff Davis to sit on the communication committee.

Mr. Seibert asked that Mr. Hodge remove one member from the communication committee so it will leave five not six members in order to have a quorum

Mr. Hodge removed Vinly Patel from the communication committee

Victoria Simmons, Regulatory Coordinator Committee Report.

Mrs. Simmons stated that there were 48 comments that needed to be addressed.

Motions that were made:

The following motions were made and voted by the board:

- 24VAC 27-30-10 Definitions: Mr. Teeter made a motion to change tow truck to tow vehicle, and it was seconded and the board approved this change to this regulation section. In the definition of the term 'towing and recovery operator' consideration was given to removing the words 'the highway or other' and the decision was if this is what the COV says, the words are to remain in the definition. In the definition of 'towing and recovery service', the recommendation had been made by the Secretary's Office to remove the second sentence to an alternative location in the regulations. The board voted to move the sentence to 24VAC27-30-110(7). Later in the meeting, the board's counsel suggested that this action be reconsidered.
- 24VAC 27-30-30 General Requirements: Mr. Sawyers made the motion to modify item (5) to show that within thirty days of changes of owners' names, etc., that notification be given to the board Mr. Sawyers' motion was seconded and the board approved the change in this section.
- 24VAC 27-30-30 item 6 b General Requirements: Mr. Brown made the motion to strike a criminal conviction from 6(b), and replace it with "whether an applicant is unfit or unsuited to engage in providing towing and recovery services" which was seconded and approved by the board.

The chair called for a 30 minute lunch break at 11:58.

The board meeting reconvened at 12:37.

- 24VAC 27-30-40 item 3 Operator Licensure without Examination: Mr. Sawyers moved that the word 'initial' in front of licensure be removed and his motion was seconded and the board approved this change this section.
- 24VAC 27-30-40 Mr. Brown moved that the date of July 1, 2008, be changed to January 1, 2009. Mr. Siebert amended the vote and it was changed to 12-31-08 by motion and seconded and the board approved this change to this section.
- 24VAC 27-30-50 Operator Licensure by Examination: Mr. Sawyers made a motion to strike section A (b) and make it just section B. Mr. Sawyers amended to stride and added the language from COV 46.2-2822. A motion was made and seconded and the board approved this change.

Captain Chumley suggested that the board table this further discussion of examination until Mr. Minor can bring a suggested jurisprudence exam to the board. Mr. Hodge ask that Mr. Sawyers and Mr. Siebert work with the education committee on the exam

24VAC 27-30-20 Fees

- After considerable discussion by the board with consideration given to the board's budget, the board approved the following modifications to the proposed fees: See Ben notes, a motion was made and second and approved to change this section by the board.
- 24VAC 27-30-70 Exemptions: Mr. Sawyers made a motion to strike the last part of the last sentence in paragraph four, his motion was seconded and the board approved this change. The stricken text was as follows: 'providing such do not impose a fee for services rendered'.
- 24VAC 27-30-100 Unprofessional Conduct: Mr. Sawyers moved that the last sentence of paragraph six be removed. All in favor 10 the motion was carried.

Next Meeting:

The next meeting will be on April 8, 2008. The locations will be at DMV in classroom 131.

Adjourned:

Chairman Hodge called for a motion to adjourn. Mr. Coleman made the motion which was seconded by Mr. Herring; the adjournment passed unanimously. The meeting was adjourned at 4:13 p.m.

See attach documents:

BOARD OF TOWING AND RECOVERY OPERATORS

General Regulations For Towing and Recovery Operators

CHAPTER 30

GENERAL REGULATIONS FOR TOWING AND RECOVERY OPERATORS

24VAC27-30-10. Definitions.

The following words and terms when used in these regulations by the Virginia Board of Towing and Recovery Operators or the board's related documents, unless expressly stated otherwise, shall have the following meanings:

"Board" means the Virginia Board of Towing and Recovery Operators.

"Class A operator" means a towing and recovery business towing vehicles of an unlimited gross vehicle weight.

"Class B operator" means a towing and recovery business towing vehicles of a gross vehicle weight of 26,000 pounds or less.

"Driver" means a person who drives or is in actual physical control of a tow truck. A driver shall have obtained an authorization document issued by the board in order to drive a tow truck while providing towing or recovery services.

"Equipment" means any tow truck, vehicle or related machinery or tools used to provide towing or recovery services.

"Gross vehicle weight" means the aggregate weight of a vehicle and the load thereon.

"Gross vehicle weight rating" means as defined in §46.2-341.4 of the Code of the Virginia.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of the Code of Virginia or local ordinances authorized by law relating to drivers or driving of motor vehicles.

"Operator" means the same as "towing and recovery operator," notwithstanding the provisions of §46.2-100 of the Code of Virginia, which defines operator differently.

"Private property/trespass tow" means requests for towing and recovery services made by the owner, operator or lessee of private property, or the authorized agent thereof, pursuant to the provisions of Article 3 (§46.2-1216 et seq.) of Chapter 12 of Title 46.2 of the Code of Virginia, or local ordinances adopted under that article, or under contract between such person and a towing and recovery operator that specifies what tows are to be made from the property when a motor vehicle or vehicle or self-propelled apparatus is on the property in violation of law or rules promulgated by the owner, operator, or lessee of the private property.

"Responsible individual" means an individual identified through the operator's licensure process who is designated by the operator to represent and be accountable for

all aspects of licensure for the operator and who is either the principal owner or chief executive officer of the business entity or manager or both of business operations for the operator.

"Tow" means when the towing vehicle has engaged the towed vehicle by a physical, mechanical means that causes the towed vehicle to be lifted off of the ground or moved for any distance whatsoever.

"Towing and recovery operator" means any person, including a business, corporation, or sole proprietor, offering services involving the use of a tow truck and services incidental to the use of a tow truck. Such services shall include but not be limited to those engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Towing and recovery services" means services offered by a towing and recovery operator. ~~Any person who in any way advertises himself as a towing and recovery operator or in any way conveys the impression that he is engaged in services of providing towing and recovery of vehicles shall be deemed to be engaged in towing and recovery services.~~

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not

include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as defined in §46.2-100 of the Code of Virginia.

"Tow truck decal," "decal" or similar words mean a board-issued decal to be affixed to the driver side door of a tow truck owned, leased or operated by a licensed towing and recovery operator.

24VAC27-30-20. Fees.

A. The following fees shall be applicable:

<u>License Item</u>	<u>Fee</u>
<u>Initial fee structure/application fee (includes the fee for one driver authorization)</u>	<u>\$500</u>
<u>Annual license renewal, Class A operator (includes the fee for one driver authorization)</u>	<u>\$500</u>
<u>Annual license renewal, Class B operator (includes the fee for one driver authorization)</u>	<u>\$500</u>
<u>Annual tow truck decal, per vehicle</u>	<u>\$10</u>
<u>Annual driver authorization documentation, per driver</u>	<u>\$50</u>
<u>Late renewal (operator, truck decal and driver)</u>	<u>150% of renewal fee</u>
<u>Reinstatement following revocation or suspension of license</u>	<u>\$1,000</u>
<u>Verification of licensure to another jurisdiction or government entity</u>	<u>\$25</u>
<u>Returned check</u>	<u>\$35</u>
<u>Duplicate copy of license, tow truck decal or driver authorization</u>	<u>\$10</u>
<u>Out-of-state temporary trip permit (each permit)</u>	<u>\$50</u>

B. All fees shall be nonrefundable.

C. Examination fees shall be determined by the board.

24VAC27-30-30. General requirements for operator's licensure.

As a condition for licensure, an operator shall:

1. Be an individual or other entity legally authorized to conduct business in the Commonwealth of Virginia.

2. Provide the name of the individual or business entity under which the applicant intends to be licensed. However, the applicant/licensee, at time of application and each renewal of license, shall provide the board with any and all trade or fictitious names under which the operator conducts or offers towing and recovery services.

3. Designate and advise the board of the main or principal office and all additional satellite facilities and the physical addresses. Should such change, the board shall be notified within 30 days such change occurs.

4. Designate a responsible individual who shall be knowledgeable of all applicable state, federal or local laws and regulations related to those towing and recovery services offered or rendered by the operator and who shall be responsible for assuring that the operator conforms to them.

5. List the principal owner's name or owners' names and the name of the responsible individual and of the principal manager and of all other individuals involved in the management and operation of the business on the application for license and advise the board of any change [within 30 days] of same.

6. Certify on the application whether any owner, manager, or other individual involved in the management or operation of the business entity, including the responsible individual, has been convicted of any criminal offense, whether felony or misdemeanor.

a. An applicant may not be refused a license or a tow truck driver's authorization document by the board solely because of a prior criminal

conviction against such applicant or against any individual who is an owner, manager or other person involved in the management or operation of the applicant's business, including the responsible individual, unless the criminal conviction directly relates to the provision of towing and recovery services or the safety of the users of such services offered by a licensee or holder of a tow truck driver's authorization document. However, the board may refuse to issue a license or tow truck driver's authorization document if, based upon all the information available, including the record of prior convictions of the applicant or any individual who is an owner, manager or other person involved in the management or operation of the applicant's business, including the responsible individual, it finds that the applicant is unfit or unsuited to engage in providing towing and recovery services.

b. The board shall consider the following criteria in determining whether a criminal conviction [whether an applicant is unfit or unsuited to engage in providing towing and recovery services] directly relates to the provision of towing and recovery services or the safety of the users of towing and recovery services:

(1) The nature and seriousness of the crime;

(2) The relationship of the crime to the purpose for requiring a license or tow truck driver's authorization document to provide towing and recovery services, which includes protecting the safety of users of such services;

(3) The extent to which providing towing and recovery services might offer an opportunity to engage in further criminal activity of the same type as that in which the convicted person had been involved;

(4) The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of providing towing and recovery services;

(5) The extent and nature of the person's past criminal activity;

(6) The age of the person at the time of the commission of the crime;

(7) The amount of time that has elapsed since the person's last involvement in the commission of a crime;

(8) The conduct and work activity of the person prior to and following the criminal activity; and

(9) Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release or at any time following the conviction.

c. The board may consider the criminal information as contained in the state or national criminal history record of the applicant or of each individual who is an owner, manager, or other person involved in the management or operation of the applicant's business, including the responsible individual, if such record is available, in lieu of the applicant providing certified copies of court records as to such convictions in determining whether a criminal conviction directly relates to the provision of towing and recovery services, and in determining whether an applicant is unfit or unsuited to engage in towing and recovery services. The board may request additional information from the applicant or relevant individuals in making such determination.

d. The following criminal convictions may not be considered a bar to licensing by the board, meaning that the inclusion of these items on the record of any individual who is an owner, manager or other person involved in the

management or operation of the business entity, including the responsible individual, shall not be sufficient as the sole grounds for denial of an operator's license.

(1) Felony convictions more than 10 years old with no subsequent reportable convictions, unless the conviction resulted in incarceration where the release date is less than three years from the date of the application. This does not include convictions involving murder, manslaughter, sexual assault, rape, robbery, or indecent liberties.

(2) Misdemeanor convictions more than three years old from the date of application.

(3) Felony convictions for possession of controlled substances more than two years old from the date of application, where the applicant has completed a deterrence program.

(4) Felony convictions of Title 46.2 of the Code of Virginia (Traffic Code) more than three years old from the date of application.

(5) Convictions of grand larceny, breaking and entering, or burglary, more than five years old with no subsequent convictions, provided they did not result in incarceration where the release date is less than three years from the application date.

7. Provide the board with information indicating all tow trucks owned, leased or used by the operator, and obtain the appropriate tow truck decal for each such tow truck. Such information shall include a basic description of the type of tow truck, make, model and vehicle identification number, and its license plate number and state issuing such license plate. Information shall be provided no

less frequently than on an annual basis, at time of initial licensure or renewal of license, and when obtaining a decal for any tow truck newly acquired.

8. Provide the board with a list of all drivers employed by the operator to drive tow trucks, including their driver's license numbers and driver authorization document numbers, at the time of initial licensure and at each renewal of the license.

24VAC27-30-40. Operator's licensure without examination.

Applicants for licensure who were engaged in towing and recovery services on or prior to January 1, 2006 who qualify for grandfather status to take effect July 1, 2008,
shall be required to:

1. Submit an application for license on a form provided by the board, indicating on the application whether it is for a Class A or Class B operator's license, and remit payment of fees applicable for application and first year license, including fees for tow truck decals. Applications shall include the operator's federal tax identification number.

2. Certify in writing that the responsible individual has read and understands the laws and regulations governing towing and recovery services.

3. In order to qualify for "grandfather status" so that no examination is required for [initial] licensure, the applicant shall submit evidence to the board that the operator was actively engaged in the business of towing and recovery services on January 1, 2006. Such evidence shall include a date prior to January 1, 2006, and the business name of the operator and may include but shall not be limited to a copy of a state or federal tax return, local business license, receipt for payment of other taxes or government fees, paid purchase order forms or similar

documents related to repair, lease, or purchase of a tow truck. The grandfather exemption shall expire if the application for license has not been received by close of business [July 1, 2008 December 31, 2008].

24VAC27-30-50. Operator's licensure by examination.

A. Applicants for licensure who were not engaged in the towing and recovery business before January 1, 2006, or who do not qualify for grandfather status or both shall be required to:

1. Submit an application for license on a form provided by the board, indicating on the application whether it is for a Class A or Class B operator's license, and remit payment of fees applicable for application and first year license, including fees for tow truck decals. Applications shall include the operator's federal tax identification number.

[2. For license as a Class A operator, submit evidence of passage by the principal owner or responsible individual of all sections of Level I and of Level II of the Towing and Recovery Association of America's certification examination or the appropriate sections of any other examination deemed by the board to be equivalent. Examinations that the board has deemed equivalent shall be posted on the board's website (<http://www.btro.vi.virginia.gov>).

3. For license as a Class B operator, submit evidence of passage by the principal owner or responsible individual of all sections of Level I of the Towing and Recovery Association of America's certification examination or the appropriate sections of any other examination deemed by the board to be equivalent. Examinations that the board has deemed equivalent shall be posted on the board's website (<http://www.btro.vi.virginia.gov>).

B. The principal owner or responsible individual of applicants for Class A and Class B operator's license shall additionally successfully pass an open book jurisprudence examination provided by the board on the laws and regulations governing towing and recovery operators. Add language from 46.2-2822

24VAC27-30-60. Operator's licensure by endorsement.

An applicant may receive licensure by endorsement providing he (i) provides evidence of passage of the applicable examination requirements set out herein for a Class A or Class B license, (ii) submits evidence that he has been actively engaged in towing and recovery services in another state for the past five consecutive years, (iii) provides a statement from a government entity in the state in which he has been conducting business or businesses in the past five consecutive years that the applicant's business has not violated or been disciplined for violation of the other state's laws and regulations governing towing and recovery services, (iv) has passed the board required jurisprudence examination, and (v) has submitted the required applications and fees to the board.

24VAC27-30-70. Exemptions.

The following shall be exempt from these regulations:

1. "Rollbacks" used exclusively to transport cargo other than vehicles.
2. "Automobile or watercraft transporters," "stinger-steered automobiles or watercraft transporters" or "tractor trucks" as defined in §46.2-100 of the Code of Virginia. Such transporters are only exempt if capable of transporting five or more vehicles and have appropriate and required interstate operating authority.

3. "Household goods carriers" as defined in §46.2-100 of the Code of Virginia providing they have been issued a valid "certificate of public convenience and necessity" means by the Virginia Department of Motor Vehicles.

4. Tow trucks solely owned and operated directly by a government entity used for public safety towing or noncommercial purposes, ~~providing such do not impose a fee for services rendered~~.

5. Tow trucks that are properly registered and domiciled in another state and have proper interstate operating authority may be operated within the Commonwealth of Virginia while passing through the Commonwealth to another jurisdiction or while delivering a vehicle within the Commonwealth, but only if the pick up of the vehicle and origin of the trip is outside of the Commonwealth. However, tow trucks registered and domiciled in another state are not exempt from licensure or provisions of applicable state laws or regulations of the board if pick up or hook up of a vehicle is in Virginia. Such tow trucks must obtain a temporary trip permit from the board prior to operating in Virginia unless licensed by the board.

6. Tow trucks owned by a person and used exclusively to transport vehicles owned by such person providing there is no charge or acceptance of fees or payment for services. In such situations, ownership of vehicles being transported must be supported by possession of title, bill of sale, registration or other legal document while the vehicle is being transported and signage must be permanently posted on the door of both sides of said tow truck indicating "NOT FOR HIRE." Letters for such signs shall each be at least three inches in height and 1/4" in width and in a color contrasting with the tow truck's color.

7. Tow trucks owned by tow truck dealers or tow truck manufacturers operating with a legally recognized dealer license plate. Such tow trucks may only be operated by an employee of the dealer or manufacturer for the sole purpose of transporting it to and from the location of sale or demonstration. Such tow trucks shall be required to have temporary or permanent lettering with the dealer's or manufacturer's name, city and state and the words "NOT FOR HIRE" displayed on both of the side doors of the tow truck. Letters for such signs shall each be at least three inches in height and 1/4" in width and in a color contrasting with the tow truck's color.

24VAC27-30-80. Transfer of operator's license.

A. Except as provided in subsection B of this section, an operator's license is not transferable.

B. Transfer of an operator's license under emergency circumstances, as agreed to by the board executive director, may be granted for up to 90 days.

24VAC27-30-90. Temporary trip permits, regulations, fees.

The board may, on application on forms provided by the board, issue a temporary trip permit to any owner of a tow truck who would otherwise be subject to licensure by the board but is not currently registered. The permit shall be valid for three days and shall show the vehicle identification number, tag number, authorized driver's name and the beginning point and the point of destination, and other information as may be required by the board, including certification that the driver is not required to register as a sex offender in any jurisdiction.

24VAC27-30-100. Unprofessional conduct.

It shall be deemed unprofessional conduct, which may be subject to disciplinary action or sanctions imposed by the board, for any licensed operator in the Commonwealth to violate any statute or regulation governing towing and recovery services, or fail to:

1. Employ only tow truck drivers who comply with the board's requirements for drivers and hold a valid driver's authorization document from the board.
2. Advise the board in writing of any change in ownership listed on the application or management, including a change in the responsible individual, or in the licensee's principal or business mailing address within 30 days of such change occurring.
3. Have the licensee's trade name, clearly indicated on all of the operator's tow trucks. Provided, however, that if the licensee's towing business is exclusively limited to towing only vehicles that are being repossessed, then the name of the licensee and any other markings that might identify the vehicle as associated with the business of repossessing vehicles shall not be required except for their board-issued decal.
4. Retain for a minimum of one year from last date of service, records of services and fees charged or collected. If said records are not maintained at the operator's principal place of business, the location of such records shall be made known to the board at the board's request.
5. Allow an authorized agent of the board to review or inspect, during regular business hours, the operator's records of services rendered and fees charged or collected, facilities and equipment. Such inspections shall be limited to that which

is related to compliance with laws or regulations governing towing and recovery operators and towing and recovery services.

6. Accept at least one of two nationally recognized credit cards. However, any individual credit card offered in payment, even if of a type normally accepted, may be considered unacceptable by the operator if the credit card processing company denies charges being applied to said card or if the actual card is not presented to the operator for inspection. Operators may insist payment by credit card be made at their principal place of business or any location at which payment for fees for services is normally accepted. ~~Operators may also insist on accepting a credit card only from the owner of the vehicle towed or impounded.~~

7. For operators engaged in towing passenger vehicles without the consent of their owners pursuant to §46.2-1231 of the Code of Virginia, also known herein as private property/trespass towing, prominently display at their main place of business and at any other location where towed vehicles may be reclaimed, a comprehensive list of all their fees for towing and recovery or the basis of such charges. This requirement to display a list of fees may also be satisfied by providing, when the towed passenger vehicle is reclaimed, a written list of such fees, either as part of a receipt or separately, to the person who reclaims the vehicle. Charges in excess of those posted shall not be collectible from any motor vehicle owner whose vehicle is towed or recovered without his consent. If the owner or representative or agent of the owner of the trespassing passenger vehicle is present and removes the trespassing vehicle from the premises before it is actually towed, the trespassing vehicle shall not be towed, but the owner or representative or agent of the owner of the trespassing vehicle shall be liable for a reasonable fee, not to exceed the fee set out in §46.2-1231 of the Code of

Virginia, or such other limit as the governing body of the county, city, or town may set by ordinance, in lieu of towing.

8. Provide, at the customer's request, a price list indicating the maximum fees normally charged for basic services for towing, recovery and processing fees for vehicles weighing 26,000 pounds or less. If storage fees are not included in the list of charges, the list shall include a statement indicating storage fees may be additional and vary according to the size and condition of the vehicle, length of time the vehicle is stored and other costs that may be incurred by the operator when storing the vehicle.

9. Have affixed on the driver's side of all of the operator's tow trucks a tow truck decal issued by the board to all licensed operators.

10. Display his operator's license in a conspicuous place in the principal office in which he operates and display a copy of his operator's license at all other locations at which payment for fees is accepted.

24VAC27-30-110. Standards of practice.

Violations of any standard of practice set out in this section may be subject to board disciplinary actions or sanctions, including suspension or revocation of an operator's license and imposition of civil penalties.

1. All of an operator's places of business, including their offices and storage facilities, shall comply with any required state or local building or zoning laws or codes.

2. If required by the locality in which the operator designates as his principal place of business, an operator must maintain a valid business license from that locality.

3. Any operator permanently ceasing to provide towing and recovery services shall notify the board in writing and return the board-issued operator's license for voluntary cancellation and termination within 15 days.

4. A licensed operator must maintain the following proof of insurance: (i) \$750,000 for automobile liability; (ii) \$750,000 for commercial general liability; (iii) \$50,000 for garagekeepers liability; (iv) \$50,000 for on hook coverage; and (v) worker's compensation as required by state and federal entities.

5. Operators shall assure that only equipment designed and rated for the type of vehicle being transported is used. Operators shall additionally assure that at no time shall one of their tow trucks exceed the manufacturer's gross vehicle weight rating: for a Class B operator, a minimum of 14,500 pounds on a rollback and a minimum of 10,000 pounds on a wrecker; for a Class A operator, a minimum of 29,000 pounds gross vehicle weight rating for a wrecker or the manufacturer's rated capacity for towing apparatus.

6. All tow trucks shall meet all federal Department of Transportation and applicable Virginia regulations. Towing or rollback units shall be a factory manufactured unit and only used as designed and rated to haul the vehicle being transported. Tow trucks shall be able to retain 50% of its front axle weight during towing operations. Safety chains or straps shall be used in all towing operations with such chains or straps rated to secure the towed vehicle to the tow truck.

7. Any person who in any way advertises himself as a towing and recovery operator or in any way conveys the impression that he is engaged in services of providing towing and recovery of vehicles shall be deemed to be engaged in towing and recovery services. Any and all advertisements, promotions, and offers for services shall include the operator's trade name and board license

number. Invoices shall include the operator's trade name, address, telephone number, and board license number.

8. Operators shall be responsible for the supervision and all actions of their employees and drivers, including their compliance with laws and regulations governing towing and recovery services.

9. Operators shall not provide public safety towing and recovery services unless they have met the criteria established by the board pursuant to §46.2-2826 of the Code of Virginia and have been placed on the list authorized by that section.

10. Whenever a trespassing vehicle is removed or towed without the owner's consent pursuant to §46.2-1231 of the Code of Virginia, then in accordance with that section, notice of the removal or towing shall forthwith be given by the driver of the tow truck to the Virginia State Police or the local law-enforcement agency of the jurisdiction from which the vehicle was towed. Should the driver fail to report such action, it shall limit the amount that may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than that charged for one day of storage and safekeeping. If the vehicle is removed and stored, the vehicle owner may be charged and the vehicle may be held for a reasonable fee for the removal and storage.

11. An operator shall comply with all local ordinances and with all contracts, if any, that he has entered into, including any agreements related to private property/trespass towing pursuant to §46.2-1231 of the Code of Virginia. At the request of both the locality and a towing and recovery operator, the board may assist in conflict resolution between an operator and a locality regarding compliance with local ordinances or contracts.

12. For vehicles towed or removed from private property without the consent of the owner, unless different limits are established by ordinance of the local governing body, an operator shall not charge a hookup and initial towing fee in excess of the amount set out in §46.2-1233.1 of the Code of Virginia. For towing such a vehicle between 7 p.m. and 8 a.m. or on any Saturday, Sunday, or holiday, an additional fee of no more than the amount set out in §46.2-1233.1 of the Code of Virginia may be charged per instance; however, in no event shall more than two such fees be charged for towing any such vehicle. No charge shall be made for storage and safekeeping for such vehicle if it is stored for a period of 24 hours or less. Except for such stated fees, no other fees or charges shall be imposed during the first 24-hour period.

13. As provided in §46.2-2828 of the Code of Virginia, no operator shall impersonate a licensed operator of a like or different name.

14. As provided in §46.2-2828 of the Code of Virginia, no operator shall publish or cause to be published in any manner an advertisement that is false, deceptive, misleading or that violates regulations of the board governing advertising by towing and recovery operators.

15. No operator shall provide any towing and recovery services for vehicles of a gross vehicle weight over 26,000 pounds unless licensed as a Class A operator.

16. In addition to the foregoing, the standards of practice for operators require that no operator shall:

(a) Engage in fraud or deceit in the offering or delivering of towing and recovery services.

(b) Conduct his business or offering services in such a manner as to endanger the health and welfare of the public.

(c) Use or allow the use of alcohol or drugs to the extent such use renders the operator or his drivers unsafe to provide towing and recovery services.

(d) Neglect to maintain on record at the licensed operator's principal office a list of all drivers in the employ of the operator.

(e) Obtain any fee by fraud or misrepresentation.

(f) Advertise in a way that directly or indirectly deceives, misleads, or defrauds the public.

(g) Advertise or offer services under a name other than one's own name or trade name (as specified on the truck) as set forth on the operator's license.

(h) Fail to accept for payment cash, insurance company check, certified check, money order, at least one of two commonly used, nationally recognized credit cards, or additional methods of payment approved by the board.

(i) Fail to display at the licensed operator's principal office in a conspicuous place a listing of all towing, recovery, and processing fees for vehicles of 26,000 pounds gross vehicle weight or less.

(j) Fail to have readily available at the customer's request the maximum fees normally charged by the licensed operator for basic services for towing and initial hookup of vehicles of 26,000 pounds gross vehicle weight or less.

(k) Fail to provide at the consumer's request the phone number for which consumer complaints may be filed with the board.

(l) Knowingly charge excessive fees for towing, storage, or administrative services or charge fees for services not rendered.

(m) Fail to maintain all towing records, which shall include itemized fees, for a period of one year from the date of service.

(n) Willfully invoice for payment any services not stipulated or otherwise incorporated in a contract for services rendered between the licensed operator and any locality or political subdivision of the Commonwealth that has established a local Towing Advisory Board pursuant to §46.2-1233.2 of the Code of Virginia.

(o) Employ any driver required to register as a sex offender as provided in §9.1-901 of the Code of Virginia.

(p) Remove or tow a trespassing vehicle, as provided in §46.2-1231 of the Code of Virginia, or a vehicle towed or removed at any request of a law-enforcement officer to any location outside the Commonwealth.

(q) Refuse at any operator's place of business where payment is accepted, to make change up to \$100 for the owner of the vehicle towed without the owner's consent if the owner pays in cash for charges for towing and storage of the vehicle.

(r) Violate, assist, induce, or cooperate with others in violating any provisions of law related to the offering or delivery of towing and recovery services, including the provisions of Chapter 28 (§46.2-2800 et seq.) of Title 46.2 of the Code of Virginia and the provisions of these regulations.

(s) Fail to provide the owner of a stolen vehicle written notice of his right under the law to be reimbursed for towing and storage of his vehicle out of

the state treasury from the appropriation for criminal charges as required in §46.2-1209 of the Code of Virginia.

(t) Fail to satisfy the procedural steps, including the timely mailing of all notices, required by §§43-32 and 43-34 of the Code of Virginia, in order to perfect and enforce the liens provided therein for towing and recovery and vehicle storage.

24VAC27-30-120. Operating without a license; penalties.

A. Should the board, after investigation, determine an operator is engaged in or offering towing and recovery services without a license, then, as authorized by §46.2-2808 of the Code of Virginia, the board may bring an action in the name of the Commonwealth to enjoin any such violation of law, as well as any violations of these regulations, or Chapter 28 (§46.2-2800 et seq.) of Title 46.2 of the Code of Virginia.

B. Those persons found to be engaged in or offering towing and recovery services without a license may be subject to a board-imposed civil penalty of up to \$1,000 for each violation pursuant to §§46.2-2811 and 46.2-2824 of the Code of Virginia.

C. The board may seek criminal prosecution for such a violation pursuant to §46.2-2812 of the Code of Virginia.

24VAC27-30-130. Expedited process to consider consumer complaints.

A. The board's executive director or designated staff shall have the authority to initiate an expedited process to mediate and resolve complaints filed against those licensed or otherwise regulated by the board according to guidelines developed by the board.

B. Anonymous complaints received by the board shall be handled in accordance with board's policy and guidance documents.

24VAC27-30-140. Prerequisites for application for tow truck driver's authorization document.

A. The board shall accept applications for tow truck driver's authorization documents at its office in Richmond or via its website. To be included with the application shall be the board application fee plus the prevailing fee required by state and federal police authorities for reviewing the fingerprints submitted by the applicant and processing the criminal history background checks required by the statutes and these regulations.

B. After the application and fees are received, the applicant shall be issued the board originating number to provide to the entity taking the fingerprints at the time the fingerprints and criminal history background check data are taken before being forwarded to Virginia State Police to be processed. The board may accept electronically processed fingerprints such as those available from LiveScan or other electronic systems that take the fingerprints and forward them electronically for almost immediate processing by state and federal officials, sometimes within 24 hours, in addition to ink fingerprint cards submitted to the Virginia State Police, noting that ink cards have processing times from 30 to 60 days and higher rates of rejection requiring retesting than electronic systems.

C. When the results of the criminal history background check are received by the board, they shall be evaluated and the application may either continue to be processed, or, if the results are such that the applicant appears to be ineligible to obtain a driver authorization document under the statutes or these regulations, the applicant shall receive a denial notice from the board.

D. A denied applicant may appeal such denial by requesting review by the board in accordance with informal proceeding provisions of the Virginia Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia) within 30 days of the denial notice.

E. Results of the criminal history background check shall be sent directly to the board office and maintained confidentially unless its contents are used to reject or place conditions upon a driver's authorization document. An applicant shall not be refused a tow truck driver's authorization document by the board solely because of a prior criminal conviction against such applicant unless the criminal conviction directly relates to the provision of towing and recovery services or the safety of the users of such services offered by a licensee or holder of a tow truck driver's authorization document. However, the board shall refuse to issue a tow truck driver's authorization document if, based upon all the information available, including the record of prior convictions of the applicant, it finds that the applicant is unfit or unsuited to engage in providing towing and recovery services as a tow truck driver.

1. The board shall consider the following criteria in determining whether a criminal conviction directly relates to the provision of towing and recovery services or the safety of the users of towing and recovery services by a tow truck driver:

a. The nature and seriousness of the crime;

b. The relationship of the crime to the purpose for requiring a license or tow truck driver's authorization document to provide towing and recovery services, which includes protecting the safety of users of such services;

c. The extent to which providing towing and recovery services might offer an opportunity to engage in further criminal activity of the same type as that in which the convicted person had been involved;

d. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of providing towing and recovery services;

e. The extent and nature of the person's past criminal activity;

f. The age of the person at the time of the commission of the crime;

g. The amount of time that has elapsed since the person's last involvement in the commission of the crime;

h. The conduct and work activity of the person prior to and following the criminal activity; and

i. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release or at any time following the conviction.

2. The following criminal convictions shall not be considered a bar to authorization by the board, meaning that the inclusion of these items on a criminal history record shall not be sufficient as the sole grounds for denial of a tow truck driver's authorization document:

a. Felony convictions more than 10 years old with no subsequent reportable convictions, unless the conviction resulted in incarceration where the release date is less than three years from the date of the application. This does not include convictions involving murder, manslaughter, sexual assault, rape, robbery, or indecent liberties.

b. Misdemeanor convictions more than three years old from the date of application.

c. Convictions of grand larceny, breaking and entering, or burglary or all of these convictions, more than five years old with no subsequent convictions, provided such convictions did not result in incarceration where the release date is less than three years from the application date.

d. Driving-under-the-influence (DUI) convictions where the applicant has completed Virginia Alcohol Safety Action Program (VASAP) or another similar program accepted by the court after the latest conviction. However, no tow truck driver's authorization document shall be issued, and none shall continue to be valid, during any time period for which (i) the person's driver's license is suspended or revoked or (ii) the person has been authorized only a restricted license during a period of suspension or revocation resulting from a conviction or convictions for DUI or any DUI-related offense, except that if the driver demonstrates that he is not required to possess a commercial driver's license in order to drive a tow truck, then an authorization document can be issued for the period during which he has a restricted license if it authorizes the driver to drive only tow trucks for which a commercial drivers license is not required.

3. The applicant must possess a valid driver's license at the time of the application. The driver shall be required to possess a commercial driver's license if applicable to the class of operator the driver is to be employed by or the type of tow truck to be driven.

4. Applicants shall be required to sign a statement verifying they are not currently on any state or federal list as a sex offender and are not required to register as a sex offender under any state, federal or local law, or the law of any foreign country.

5. A tow truck driver's authorization documents shall be valid for one year and shall be subject to annual renewal by June 30 of each year. Driver authorization documents issued on or after April 1 of any year, with the payment of a full year's fee, shall be valid until June 30 of the following year.

24VAC27-30-150. Exemptions from tow truck driver authorizations.

A tow truck driver's authorization document shall be required for operation of a tow truck in Virginia only if such operation is for hire and involves a pick up of the towed vehicle in Virginia. Driving a tow truck into or through Virginia while towing a vehicle picked up outside of Virginia shall not require a driver's authorization document.

24VAC27-30-160. Requirements for drivers.

A tow truck driver shall:

1. Possess a valid and appropriate driver's license and tow truck driver's authorization document while operating a tow truck for hire in Virginia when the pick up of the towed vehicle takes place in Virginia.
2. Provide evidence at time of application for a tow truck driver's authorization document that he is employed or about to be employed by a licensed operator and the name and address of that operator.
3. Maintain in his possession and have readily available for inspection when providing towing and recovery services his board-issued tow truck driver's authorization document. The driver's authorization document shall include the name of the driver and the driver's appropriate driver's license number of the state in which he holds a valid driver's license and the name and board-issued license number of the driver's employer.

4. Notify the board within five business days upon the driver being convicted of any criminal offense, including any offense for which the driver is required to register as a sex offender under any state, federal or local law, or the law of any foreign country.

5. Provide towing and recovery services in a safe manner.

6. Review and read all regulations and laws related to standards of practice, unprofessional conduct and safety prior to operating a tow truck or providing towing and recovery services. The driver shall sign a statement to be retained by the operator who employs the driver verifying the driver's compliance with this subsection.

7. Notify the board within 15 days of any change in licensed operator who employs the driver. The driver's authorized documentation shall, within 30 days of any change in employer, reflect the current operator or operators who employ the driver.

8. Surrender his tow truck driver's authorization document should the board rescind, cancel, suspend, revoke or deny such tow truck driver's authorization document upon a determination by the board that the driver has violated laws or regulations governing towing and recovery services or otherwise has become unqualified to hold a tow truck authorization document.

24VAC27-30-170. Renewal of licensure; reinstatement; renewal of fees.

A. All those licensed by the board as a towing and recovery operator shall, on or before June 30 of every year, submit a completed renewal application and pay the prescribed annual licensure fee.

B. It shall be the duty and responsibility of each licensee to assure that the board has the licensee's current mailing address. All changes of mailing addresses or change of name shall be furnished to the board within 30 days after the change occurs. All notices required by law or by these rules and regulations are to be deemed validly tendered when mailed to the address given by the licensee to the board, and the licensee shall not be relieved of the obligation to comply with any notice so mailed if there has been a failure to notify the board of changes.

C. The license of every operator who does not submit the completed form and fee or forms and fees, as applicable, by June 30 of each year may be allowed to apply for renewal for up to one year after that date by paying the prescribed renewal fee and late fee. However, if the renewal has not been submitted to the board within 62 days after the June 30 due date, then on and after August 31 of that year the operator's license is lapsed. Engaging in towing and recovery services with a lapsed license constitutes operating without a license and may subject the licensee to disciplinary action and civil penalties imposed by the board.

D. An operator whose license has been lapsed for more than one year and who wishes to resume providing services as a towing and recovery operator shall apply for a new operator's license.

24VAC27-30-180. Requirements for continuing education shall become effective July 1, 2011.

A. Exclusive of additional hours that may be required of those recognized by the board to provide public safety towing and recovery services, each application for operator's license renewal shall be conditioned upon submission of evidence to the board of eight hours of continuing education taken by the principal owner or responsible individual or other person responsible for the day-to-day operations of the applicant for

renewal during the previous license period, and an additional four hours of continuing education taken by each of the tow truck drivers employed by the applicant during the previous licensing period and employed by the operator at the time the operator submits his license renewal application.

1. The required hours of continuing education shall be directly related to the safe and proper rendering and business practices of towing and recovery services, proper inspection and maintenance of equipment, and laws and regulations governing towing and recovery operators.

2. Courses that are offered directly by or of which a majority of their content promote the sale of specific equipment or products or on augmenting income are excluded and may not receive credit by the board.

B. Each licensee shall attest to fulfillment of continuing education requirements on the required annual renewal application form completed by the applicant for renewal and submitted to the board. All continuing education shall be completed prior to application for renewal being submitted each year unless an extension or waiver has been granted by the board's continuing education committee.

C. Requests to the board for consideration of waiver, reduction in the number of hours or an extension for time to complete continuing education shall be in writing and must be received by the board no later than April 1 of the year for which such request is made. Such requests are only to be considered when based on documented illness or undue hardship.

D. All continuing education courses shall be offered by an approved sponsor, a list of whom shall be posted on the board's website. Courses that are not offered by an approved sponsor shall not be accepted for continuing education credit, but the sponsor

of such a course may apply for approval by submitting an application to the board's executive director.

E. At least one-half of the required number of continuing education credit hours completed annually must be through face-to-face instruction, which requires the presenter and audience to see and to hear each other during the presentation.

F. Courses presented via the Internet or by correspondence must (i) be sponsored by a board approved sponsor and (ii) require a post-test with credit only to be granted for the licensee receiving a passing grade as indicated on the certificate of completion of the course.

G. Licensees shall maintain documentation for a period of at least three years of the continuing education completed as required for renewal of their license.

H. At the discretion of the board, a random audit of licensees may be conducted by the board, which shall require that the licensee, within 21 days of the request, provide evidence substantiating completion of the required continuing education courses.

I. Documentation of hours shall clearly indicate: (i) the name of the sponsor of the continuing education; (ii) the name or title of the presentation or instruction; (iii) the name of the instructor or instructors; (iv) the location where the instruction was presented; (v) the time period of the instruction; (vi) the number of applicable continuing education hours received; (vii) the name of the person taking the course and that person's relationship to the licensee, as well as the name of the licensee; and (viii) either a signature, a type of stamp, or some other means to verify attendance. Documents failing to have the required information shall not be acceptable to the board. Correspondence or internet courses shall be credited according to the date on which the post-test was graded as indicated on the applicable continuing education certificate.

J. One hour of continuing education credit shall require the licensee's presence and participation for at least 50 minutes.

K. A licensee shall be exempt from the continuing education competency requirements for the first renewal following the date of initial licensure by examination in Virginia.

FORMS

Operators License Application, 27LIC (eff. 1/08).

Tow Truck Driver Authorization Application (eff. 1/08).

Change of Responsible Individual Application (eff. 1/08).

Certification Statement:

I certify that this regulation is full, true, and correctly dated.

_____ (Signature of certifying official)

Name and title of certifying official:_____

Name of agency:_____

Date:_____

SUMMARY OF PUBLIC COMMENTS

General Regulations of Towing and Recovery Operators

24 VAC 27-30-10 through 24 VAC 27-30-180

BTRO's proposed regulations were published in the January 21, 2008, Virginia Register (VR 24:10 pp1300 et seq.) for their comment period from January 21, 2008, through March 21, 2008. A public hearing was also held on February 11, 2008, at DMV, 2300 West Broad Street, Classroom 131, Richmond, VA, with the Chairman of BTRO receiving comments from the public. Comments have been received from 48 companies/individuals: during the February 11th public hearing, written comments submitted during the comment period, and comments recorded during the comment period on the public forum site of the Regulatory Town Hall. Comments not specific to these regulations are not reflected herein. A summary of the received comments (specific to these regulations) follows:

Some of the individuals who made comments used unknown acronyms in their comments, such as CDL and WT. These have not been herein defined.

Secretary's Office comment about 24VAC 27-30-10. Definitions: The Purpose/Requirement for regulation does not belong in the Definitions section but should be moved to its own regulation section. Also, several important provisions, dealing with sanctions and an appeal process, need to be incorporated into these General regulations. In the definition of 'Towing and Recovery Services', the statement beginning 'Any person who in any way advertises.....' should not be in the definitions but should be moved to an appropriate provision further down in the regulations. In the definition of 'Tow' the words 'towing vehicle' should be changed to 'tow truck'. In the definition of 'Towing and recovery operator sub-item (ii)' the words 'the highway or other' should be removed.

Secretary's Office comment about 24VAC 27-30-30. General requirements for operator's licensure Item 5: There should be a time frame associated with this notification as there is with other requirements. Item 6(b): Reference to 'a criminal conviction directly relates to the provision of towing and recovery services' should be changed to 'whether an applicant is unfit or unsuited to engage in providing towing and recovery services'.

Secretary's Office comment about 24VAC 27-30-50. Operator's licensure by examination: With regard to the first paragraph's provision for grandfather status, it appears that anyone engaged in the towing and recovery business prior to January 1, 2006, would be grand-fathered and not required to neither submit applications for licensure nor be required to successfully pass jurisprudence exams. Explain when this situation would be applicable.

Secretary's Office comment about 24VAC 27-30-70. Exemptions: With regard to Item 4, this Board will not be in the business of licensing governments to tow vehicles therefore the language 'providing such do not impose a fee for services rendered' should be removed. With regard to Item 6, there needs to be language added to allow someone to tow his mother's, husband's, son's cars as well.

Secretary's Office comment about 24VAC 27-30-100. Unprofessional conduct. In Item 6, please explain why a boyfriend should be prohibited by an operator from paying for towing of his girlfriend's car. The text 'Operators may also insist on accepting a credit card.....' should be stricken from these regulations. Item 7, the limit in this section of referenced Code of Virginia (§ 46.2-1233.1) is the same as the limit for a regular tow. Also the entire statement beginning 'This requirement to display a list of fees.....' should be stricken from these regulations. Item 8, the last sentence concerning the operator providing a list of his storage fees should be modified to change the permissive language of 'may be additional' to 'are additional'.

Secretary's Office comment about 24VAC 27-30-110. Standards of practice: Item 3, the number of days in which an operator who permanently ceases to operate has in order to return his operator's license to BTRO should be changed from 15 days to 30 days.

Secretary's Office comment about 24VAC 27-30-130. Expedited process to consider consumer complaints: With regard to this entire section, the regulations need to be fleshed out better and the issue of the BTRO's policies being established was raised.

Secretary's Office comment about 24VAC 27-30-140. Prerequisites for application for Tow Truck Driver's Authorization Document: Item A, the referenced 'board application fee' was not included in the list of fees (refer to section 24VAC 27-30-20). Item B, in the last sentence it is recommended that text referring to almost immediate processing (of fingerprints) and 'noting that ink cards have processing times....' should be deleted as this is language appropriate for a website but not for a regulation.

Secretary's Office comment about 24VAC 27-30-160. Requirements for drivers: Item C, in the second sentence, 'appropriate driver's' text should be deleted.

Secretary's Office comment about 24VAC 27-30-170. Renewal of licensure; reinstatement; renewal of fees: Item C, reference to 62 days should be changed to two months and August 31st should be September 1st. Item D language appears to create a situation that is not addressed by the regulation in which a license has lapsed by more than two months but it has been less than one year.

Registrar's Office comment about 24VAC 27-30-180. Requirements for continuing education shall become effective July 1, 2011: There needs to be language added in the body of this section that provides for the delayed effective date of the continuing education requirement. Just having the delay date shown in the catch line of the section does not make it legally enforceable.

Skimino Towing: The fee schedule in the regulations is not fair to the small operator in that the large operator should bear the same ratio to profit as the one truck operator under the proposed regulations. A hundred truck operator pays the same as the one truck operator who pays a greater percentage of his profits for the license. The requirement in 24VAC27-30-30 to list the names of driver employees cannot be complied with because the operator may not have the required information (such as the drivers' license numbers

and authorization document numbers) at the time of the initial licensing. This commenter asked that this requirement be removed from the general regulations because the operators would not have this information to provide. Commenter took issue with the requirement to display the license (24VAC27-30-100) at all locations where payment is accepted. This implies that a copy of the license would have to be displayed in the cab of the tow truck since we accept payment there. This commenter suggested that the regulations should say licenses should be displayed at all offices and storage lots where payment is accepted as the decal for the truck should suffice. Commenter expressed concern about the continuing education requirements (24VAC27-30-180) which would require an owner/operator or operator/driver to have 12 hours of continuing education per year. This requirement for continuing education is greater than for an EMT. Four hours for a driver is ok but if the operator is a driver also, he should be required to have eight hours of education and not 12.

Mark's Auto and Welding Services, Inc.: Commenter has been in towing business for 18 years providing light and heavy towing and there are no problems in his area of the state. A few bad eggs should not spoil it for everybody. These regulations are discriminating against small towing companies in Virginia and favoritism to the large guys. These regulations far exceed what is necessary for providing a safe, effective and efficient way of towing in many areas of Virginia. This commenter reported that he had spoken to a large number of towing operators in his area (Gloucester, Matthews and Middlesex Counties) and all feel their current equipment is adequate for the market needs. None of these operators has equipment that could meet the proposed requirements nor could they afford to do so. If we did purchase the required equipment, we would have to charge our customers more and we don't think our customers could or should have to pay such higher rates. We feel if these proposed regulations are passed, the Virginia State Police and local sheriff's office will have great difficulty finding a towing company to accommodate a traffic accident. This would cause longer waits, causing more traffic hazards and tying up fire and rescue for longer periods of time.

***Philbates Towing and Wrecking:** Commenter has been in business for 54 years. The fees as proposed by these regulations are too high for one- or two-truck operators. If an operator has 25 or 30 trucks, he will pay the same fee. This commenter stated that he thought it should be \$100, \$150 or \$200 per truck. Why have the requirement for license renewal requiring eight hours of training when this commenter has been in business for 54 years? To this commenter this seemed backwards but should be that the training is required before a license is first obtained not for the renewal. If an operator has been in business for 12, 15 years, why do you need training? After driving for 54 years on a rollback, I don't think you can teach me more in eight hours of training than what I already know. The regulations concerning a temporary trip permit were not clear: how am I going to get such a permit in the middle of Sunday evening? Either clarify this requirement or strike it out. The 'grandfather clause' as provided in these regulations is not a true grandfather clause since it only permits an extension of time. A grandfather clause is supposed to be permanent not just a time extension.

This commenter submitted written comments to the Executive Director dated March 21, 2008, as follows: the proposed fee amount for operators (\$500) is too high for the small operator. This commenter calculated the cost of all of the board's proposed requirements at \$2,320 for 48 tows per year or roughly \$48.33 per vehicle. This commenter will have to raise his rates to meet the fee, criminal background check cost, fingerprinting cost, and education requirements. This commenter stated that a fee of either \$100 or \$200 would be enough or preferably \$100 per truck. The fee of \$50 would be fair for the main driver but substitute drivers (working when the main driver is not able to work) should be less.

This commenter stated that the grandfather clause provided for in the proposed regulations is not a proper grandfather clause. It should exempt the individual from now on and not just stop after a year. This commenter suggested that persons with 15 years of experience be grandfathered from the every-three-years training requirement and save the \$375 expense.

This commenter stated that any business that had been in operation for 15 years or more and could provide a letter of recommendation from the local sheriff's department should not have to have driver training classes every three years. After driving a tow truck for 53 years, I don't think 8 hours of training will teach me how to safely operate one.

This commenter stated, with regard to the \$500 criminal background check, that it should not be required for an operator who has 15 years of experience. Instead, the board could require operators to obtain a concealed weapon permit. This involves fingerprinting and background checks by the state and FBI, then going before a judge. This permit only costs \$50 and has to be renewed and rechecked every 5 years.

This commenter stated that he could not see how this would help the public. This will not stop illegal, fly-by-night operators or gougers but will create a shortage of small operators. It will also limit the number of young and minority persons who are able to enter the business as they will not be able to afford the costs.

This commenter also had a comment about SB 707 that has been included in the companion document.

This commenter was permitted, during the February 11, 2008, public hearing to make comments about private contract towing and public safety towing that are not summarized as part of these public comments because they did not relate to the General Regulations under comment period.

What about the matter of private towing? Towing arrangements with AAA should be considered private towing and should not be regulated by the public safety regulations that BTRO is considering. However, the state should regulate abandoned vehicle towing.

Blair's Towing: These regulations won't help the towing industry or benefit the public but will do a disservice to the residents of Virginia. Commenter agrees with the employee background checks, TRAA training, possibly licensing fees. Its industry must

be very careful about the regulations because once it starts, there is no stopping it and some are suggesting that the guidelines do not represent the small towers in this state. Commenter stated that the July 1 deadline is not realistic and should be implemented in stages to give us time to understand and abide by the changes. This will cost all towing businesses some additional expense and it will affect the citizens of Virginia by raising rates and fees, especially if some businesses are forced out of business. This commenter stated that he was not against all of the regulations but we must consider the effect it will have on all the towing companies in the Commonwealth. *This commenter made statements about the public safety towing regulations that were stricken from this record as this public hearing concerned the BTRO General Regulations.*

Adams Wrecker Service: This commenter had a lot of issues with these regulations. The proposed fees were not fair for a single truck operator to pay the same as large operations so alternative fees were suggested (\$250 for 1-3 trucks; \$450 for 3-10 trucks, more than 10 trucks would be an additional \$50 per truck). The driver document fee should be \$50 for two years and not one year. The regulations appeared that a new driver would have to be pre-trained before he could be hired. This would be hard to do. An operator should be allowed some time to train new drivers so they can meet the proposed regulations. The regs appeared to require Class B operators to post their towing rates but not Class A operators. This commenter stated that everyone should have to post their rates. The continuing education requirements every year are ridiculous as training should be good for three years. Commenter is also a licensed gun dealer. Commenter asked why the same system for background checks to buy a gun can't be also used for background checks to drive a tow truck? Commenter asked why the full BTRO was not in attendance at this public hearing.

This commenter, in a comment recorded on the Regulatory Town Hall on March 19, 2008, stated that the proposed regulations were mostly unneeded. This commenter stated that the fees need to be reasonable and reflect the size of the operation. The drivers' license should be done away with. Operators should be licensed and let them use his judgement about hiring drivers. The education requirements should be the same for all towers and should be good for at least 3 years.

***Layman's Automotive and Towing:** This commenter has a Class A and Class B towing and recovery business and performs repairs. This commenter asked why this is set up when all the state needs to do is enforce current laws. This commenter asked why he needed additional licenses for his company, his employees and himself. This commenter asked why he needed a tow operator's license for his support drivers who already have background checks in place as required by his insurance company, a business already regulated by the state of Virginia. These rules are not in the best interest of towing businesses. He requested that more time be allowed for public input to be invested to help improve the recommendations.

This commenter stated that it looked like big business was trying to push small business out of business. This commenter felt that the board has been influenced by a group that is trying to monopolize the towing profession. This commenter stated that there are codes about towing that nobody enforces and he could not see paying another \$500 for this.

His drivers have to drive to suit him before he allows them to go out of here. This commenter stated that background checks for drivers could be done but who was going to check on the customer? This commenter also stated that the state already has towing laws and regs and if he does not tell that someone is operating legally, who is going to enforce these things?

At the end of the other commenters' presentations during the February 11, 2008, public hearing, and this commenter made a further comment: The state already has towing regulations and laws that we need to go by. If I don't tell one of the police officers or somebody else that this man is not operating legal and we run into this once in a while that we know a many doesn't have insurance or we know a driver doesn't have a driver's license, who's going to enforce these things?

Rick's Towing: This commenter has been in business for 20 years. This commenter stated that the proposed fees would increase her overhead by 40% leaving no choice but to increase the cost to her customers. Tow operators should not be required to notify owners of stolen autos that their vehicles had been towed as this should be the responsibility of the recovering police department. Police should have to notify the owner of his rights to make a claim to the state to recover his costs. 'If I don't, then I'm subject to fine by the board.' In the last 20 years, we have tried to comply with the state and local laws while being the best professionals that we can be. This board is not helping my cause.

This commenter submitted written comments to the board dated March 19, 2008, concerning his appeal rights should there be an issue of concern. This commenter stated that he felt it would be unfair for the board to find him guilty of violations and assess a fine, and then hear his appeal.

***Bowman's Towing:** This commenter has been in business for 20 years and has performed all duties. This commenter questioned why tow operators must be required to post their rates for services, as not all the costs are the same. This commenter pointed out that there are so many different circumstances that rates may need to vary. This commenter stated that BTRO should not require tow operators to accept credit cards, as there are additional charges associated with credit cards, which add to overhead. Also, it is easy for the customer to stop the payment for the completed job just by saying they're dissatisfied with the service. 'For the same reason, we do not take personal checks unless we know the customer.' This commenter stated that the computer requirement was burdensome.

A second commenter from this operator stated that the BTRO was supposed to be made of nine Class A and Class B operators. The BTRO was in violation of its own advertising rule. This second commenter also stated that 'operators could be criminals because of actions by their employees. This is not right.' This second commenter also felt the proposed fees were not appropriate. This commenter stated that he was not opposed to

everything that BTRO is doing but that these proposed regs are not going to address people who are operating illegally.

At the end of the other commenters' presentations at the February 11, 2008, public hearing, this commenter had an additional comment: he did not see where there is a policy or anything that does away with these guys out here running up and the road every day towing cars illegally. They don't have insurance or proper tags. The only thing this commenter saw in the regs was addressed to me, the guy that's trying to be legal not the guy over there.

***Virginia Beach Towing Association:** This commenter stated that BTRO had gone too far and was moving too fast in an effort to accomplish goals that are not quite clear. Moving too far too fast has brought suspicion upon the board. This commenter stated that the Senate Transportation Committee was suspicious of BTRO's motives. This commenter felt it was unbecoming for a board in the Commonwealth of Virginia to bring this much suspicion upon itself within a 12-month period. Many small towers are disadvantaged by the general regulations, both financially and the way they operate their businesses. DPB's notes affect one-truck operators. This commenter questioned why BTRO was moving forward in such a rapid manner. This commenter stated that BTRO did not define inappropriate equipment and doesn't know what effect there will be on the towing industry.

This commenter stated about the continuing education requirements that insufficient information existed to accurately assess the benefits and to compare the costs to the benefits. This commenter questioned whether it would be possible to process so many applicants (2,200 tow operators and nine to 10,000 drivers) in the expected time period. This commenter also asked the BTRO to consider how public safety could be damaged and that the board could actually be counter productive to its charge from the General Assembly.

***Blue Streak Towing:** This commenter agreed with the previous statements. This commenter believes that BTRO will be hard pressed to inform the industry about the regulations. This commenter stated that she was not completely against the regulations. This commenter stated that the proposed fees need to be more creative and should be commensurate with the size of the operation. Renewal fees may be less than initial fees. The driver authorization should be valid for more than one year. This commenter did not understand why requirements to drive a tow truck should be more restricted than a CDL. This commenter stated that the late renewal fee (24VAC27-30-20) is excessive and that there should be a 15-days grace period for late renewal beyond the June 30th deadline. This commenter stated that the fees, with the profits of a small operator, the income of a tow truck driver, are realistic to cover it. This commenter stated that she thought there would be a lot of people not being authorized.

This commenter stated that there should be no late fees applied at all for at least the first six months of these regulations because of the time constraint that the board is trying to make happen. This commenter stated that the 'regs left no room for subjective judgment when you are making a decision on whether or not you're going to give authorization.' This commenter stated that there should be at least full or partial refund on applications for operators or drivers that are denied.

This commenter stated that the last sentence of 24VAC27-30-40, referring to the grandfathering of an operator's license, was wrong and unjust in light of the time constraints right now. If somebody is in the business and they qualify for grandfathering, it should not be eliminated on July 2nd at least not for the first year of the regulations regardless of when and how they get applications.

This commenter stated that there was no provision for a driver to be employed prior to licensing. This process can potentially take several weeks. A driver should be allowed to be employed provided he has submitted an application within 30 days of the first day of employment. There should be a provision to bring on a driver, especially during the first couple of years so that this process can continue to take place. This commenter stated about 24VAC27-30-60 that a driver authorization should not have to be directly linked to an operator. A driver should be able to hold an authorization whether he's employed or if he's not employed just like you do with a CDL. Tow drivers are frequently moving in and out of employment and this type of tracking is excessive. The operators already have to inform you of their drivers anyway.

***David Adams:** This commenter stated that state-issued gun licenses travel with the individual regardless of who the individual works for. The criminal background check travels with the individual also. This commenter stated that the BTRO license should work the same way.

***Representatives of Newport News City Attorney's Office/Police Department Towing Enforcement:** In public comments made at the BTRO public hearing held on February 11, 2008, this commenter stated that the tow operators preferred the requirement that localities be required to institute local towing advisory boards and local ordinances and that BTRO should set advisory standards for localities. The localities would then use BTRO's advisory standards to create their ordinances and localities would be advised that it would be in their best interest to follow. This commenter was not opposed to all of the proposed regulations.

This commenter stated that the continuing education would be good to maintain standards. This commenter stated that 24VAC27-30-40 regarding the grandfather status was not clear whether it would be for the first year of licensure or if it would carry on. This commenter stated that the grandfather status should be of indefinite length rather than just for the initial year.

This commenter stated that the consequences of applications not being received by July 1, 2008, were harsh in light of the fact that the regulations will just be taking effect July 1st. This commenter stated that the criminal conviction standards were subjective and time consuming to consider, as there are nine different considerations listed, and that considering so many would hold up application processing. The commenter asked where the manpower would come from to evaluate which criminal convictions would pass and which would fail.

The second commenter from the Newport News Police Department Towing Enforcement asked why BTRO was not using a licensing process as through the Department of Motor Vehicles and then the board could set up guidelines for towers to know in order to tow in Virginia. This would decrease the amount of time and effort needed to implement the A and B licenses. This commenter suggested giving a yearlong extension to the enactment date for these regulations for tow operators to come into compliance with the requirements. This commenter also stated that the standards should cover all towers equally. This second commenter also questioned the BTRO member selection.

The Newport News City Attorney's Office commenter also provided the following written comments: In referring to the stated purpose for this regulatory action ('to address the apparently inconsistent or outdated state statutes and a patchwork of local ordinances that have been ineffective in ensuring fairness to either those in the towing and recovery business or those owners of vehicles whose vehicles are towed'), this commenter asked BTRO to advise as to which local ordinances and state statutes are outdated and inconsistent. This commenter has been unable to locate large numbers of statutes that are proposed for updating. The astronomical proposed fees will ensure that small towing firms will be unable to conduct business. The commenter listed the various fees contained in the proposed regulations.

This commenter stated that rogue towing firms would continue to operate illegally. A tow truck is a commercial vehicle designed to tow. If some one needs to haul a personal vehicle, they build trailers. The credit card requirement is only required for police requested towing in Newport News. This commenter asked who would be implementing enforcement and what requirements are being imposed on local and state to provide enforcement of the regulations.

This commenter expressed concern that the fees and regulations will affect the small business that is contracted with local police to assist with towing. BTRO proposes to regulate how towing firms will conduct business, which they can hire, and micromanaging. Having a misdemeanor is a disqualifier. This commenter asked what other industry regulates mandatory training to operate as a business. With regard to the expiration grandfather clause, this commenter asked why BTRO would cut a company off from applying on the same day the law becomes effective. Making the regulation become effective July 1, 2008, and having towing firms be in compliance on the same day is extreme and places a large amount of stress and financial burdens on the towing business in the Commonwealth.

This commenter noted the regulation for professional conduct and standards of practice but did not say what the concern or issue was.

This commenter addressed the amount time it will take for a tow truck driver to receive authorization to drive and, since this is a source of income, this would need to be completed as quickly as possible. This commenter stated that BTRO had created regulations in the best interest of members of the board in lieu of what is in the best interest of the towing industry, the Commonwealth and citizens.

This commenter suggested that cities should establish towing advisory boards that would regulate the city and state laws. These suggested local advisory boards would come under the direction of BTRO. With regard to the towing operators' license, the suggestion was made to have a test at DMV. "In order to assure that all towing operators in Virginia are consistent, this task could be handled by developing at (*sic*) test would require anyone wanting to be a tow truck driver to pass the test and other requirements necessary to assure the driver was proficient." BTRO should look at the laws already in place and revise them to fit the needs of the towing industry, the Commonwealth and the citizens instead of creating unnecessary hardships.

This commenter suggested education local and state law enforcement officers about the problems associated with towing and soliciting assistance with enforcement. BTRO could make some of the laws effective on July 1, 2008, but not make compliance effective until a year of the passing of the regulation. BTRO should reduce the number of changes, as the requirements are very stringent, especially for small business.

***Willow Lawn Service Center:** Towers who are working for the local police are already regulated in their rates. The additional costs by these regulations cannot be passed on. The police say how much you can tow, the maximum you can charge for certain types of tows. 'Some of us who tow for the county think that the rates are a little bit low for certain things, certain rates are okay, other ones we don't get reimbursed for what we do.' This commenter stated that private towing rates are unregulated and that localities regulate rates. If the board is going to regulate towing, then it should say to municipalities that they cannot regulate.

This commenter had questions about the continuing education requirements: where would it be? by whom? This commenter asked if the state is going to provide it at every place that there is a state facility, such as a DMV or ABC store, or do we have to send our drivers away? The last towing education that this commenter saw anything about was in Maryland. This commenter stated that many of his drivers are part time and he wondered if he would have to pay his drivers to go out of town to obtain continuing education.

This commenter asked what was meant by the regulatory requirement about office space being for the exclusive use of the tower. This commenter stated that he has more than enough office space to operate his service station business and the towing service. This commenter asked if the board meant that he had to cut off a section of his business and

only tow operations could be in there. This commenter stated that this was restrictive and interferes with other businesses.

This commenter also asked what BTRO meant by two-way communication being required on the truck. 'Did BTRO mean a cellular telephone or two-way radios? Does each person other there have to have a radio on his hip if you've got more than one truck out there?' This commenter asked if BTRO was requiring him to provide a landline telephone for the use of his customers and permit them to call anywhere they wished at his expense?

This commenter stated that tow businesses are now paying a minimum of \$100 more for DMV licenses and asked if that fee would be reduced with the advent of the regulations the board is proposing. This commenter stated that he supported 98% of the previous remarks.

This commenter, in a comment recorded on the Regulatory Town Hall on March 21, 2008, that he agreed that more time is needed for comments to be made and considered on these proposed regulations. This commenter stated that some response from the board to the comments already submitted would be helpful. This commenter thought that more comments on those responses should be allowed.

***CRS and Taylor's Towing:** This commenter questioned who would enforce these proposed requirements and how? 'How is it going to help the guy like me that's gonna comply and who's gonna regulate the guy that doesn't?' 'Having gone through the process before with the car business, I know in Northern Virginia, the laws up there get enforced. In Tidewater, where we have a bigger concentration of care dealers than Northern Virginia, the laws are not enforced; I just don't want to see us run into the same thing.'

***Hampton Roads Towing:** This commenter observed that the annual background check requirement was excessive as doctors and pharmacists are not required to meet this frequency. Tow truck drivers work 16 hours a day and don't have a whole lot of time to break the law. This commenter asked what was going to happen to towers who did not know this action was going on. This commenter stated that he had been passing the word along because he hauls for insurance companies. There are people in the back areas who tow and they are not going to know. What happens July 1 to them when they get pulled over and what's gonna affect them because this should have been put out on the new publicly a long time ago. 'I found out six months ago and started organizing meeting and getting people together.'

This commenter stated that he opposed the group called MIRA and asked if it is a public company, a private company or open to the public? This commenter asked who is MIRA and where we could get a copy of who's on MIRA? This commenter asked if MIRA proceedings are taped or video recorded and where he could get a copy of the recording.

This commenter stated that he had been in business for 24 years. If all this goes into effect, the fees, the taxes, the rates, I won't be working for me but for the board. Fuel prices have doubled and insurance has gone up. With a city license, we are already regulated on what we can and can't do. Hampton just got a rate increase from \$85 to \$125 for a police tow. That was after five and one half years of being down.

'The labor taxes are about to hit in April. We've got fees here for trucks that are coming in and everything else. Now we're getting five percent taxed on all tows we do now. Y'all are in June or July. It adds up quick. If the costs have got to go up the public needs to know about it.'

This commenter asked about body shops that have wreckers. 'Has the board told them about these new requirements?' He has tried to tell the ones he goes to but there are a lot of body shops that own tow trucks. They're not on a probation list. What about if they go out and pick up their own cars? Are they required under these same regulations? Has anyone told them?

This commenter further stated that he had come to meetings two, three months ago and asked to speak and was told he was not allowed to ask questions or talk. 'That's why I quit coming because if I can't speak and voice my opinion, then all I'm doing is coming to listen. I had no clue that there was a public comment period at board meetings and that I was limited to that time period. It was my first meeting.'

This commenter added these comments to his previous comments immediately prior to the end of the public hearing on February 11, 2008: 'We don't get to hire drivers. Our insurance companies do by telling us who we can and can't hire. They (insurance companies) are harder on us than anybody else. Drivers work until the insurance says they can't.'

***Eagle Towing:** This commenter, in written comments submitted 2/12/2008, asked if the general regs applied to 'for hire' towers only. If yes, there is nothing to prevent junk haulers from continuing their practices of towing with outdated, unsafe, and sometimes illegal equipment since they are compensated for the junk and not the actual tow. This commenter questioned why there is a need to keep \$100 in change.

In his years of experience, he has found that \$35 is sufficient for giving change. Additionally, since all towers accept credit cards now it is unsafe for drivers to carry this amount of cash.

This commenter questioned why the background check had to be performed every year and stated that this was excessive as the background check for concealed weapon permits are valid for 5 years. Coaching children's sporting events requires criminal background checks every 3 years. This commenter questioned why it would be necessary to get a criminal background check, be fingerprinted, and pay a driver authorization fee for every person who drives a tow truck. If an authorized driver was on the scene, for every person

(such as wives, relatives, or neighbors) who may have the occasional opportunity to drive a tow truck to have a driver authorization. Tow trucks have the same design as U-Haul trucks, which anybody can rent with no truck driving experience at all.

***Bailey and Sons Towing:** This commenter questioned the urgency to get these regulations done by July 1, 2008. If it is because BTRO is running out of appropriated funds, BTRO should request more money from the appropriations committee. Let's do this thing right.

***Martin's Towing:** This commenter stated it would be hardship on him to pay the proposed fees and maintain the office space requirements. His wrecker sometimes sits a week or two without moving. 'My office is in my house trailer because my house burned down years ago. I've only got an acre and seven tenths and it makes it hard for a small man to have to be come by the regulations and be able to stay in business.' This commenter stated that he would have to go out of business and that is unfair. He has been in business for 16 years.

***Representatives of AAA, MidAtlantic:** This commenter stated he had presented AAA's position to the General Assembly. This commenter stated that he endorsed Mr. Fly's comments and many of the other comments that had already been made. This commenter stated that the proposed fee structure should be changed to a tiered structure, as determined by company size, to be fairer to small businesses.

This commenter stated that Senate Bill 707 is being considered. This commenter read excerpts from a letter that has been provided to state senators relative to SB 707. This commenter stated that AAA has a proud history and relies on small towers, along with state police and local police, and these proposed requirements would be unable to continue as viable businesses due to the expense of complying with the proposed requirements. This clearly would not protect Virginia motorists but would harm them by depriving many the readily available towing services in the rural areas of the state while also increasing costs and delays.

This commenter stated that BTRO was formed in 2006 to address concerns regarding predatory practices involving non-consent towing. These proposed regulations go much further than the intent of the original legislation and propose to regulate consensual towing. "Furthermore, they appear far more focused on protecting and enhancing the business of a few big tow operators, while jeopardizing and likely putting many smaller companies out of business through numerous onerous requirements of regulations." This commenter stated that BTRO could not meet the statutory requirements for implementing these regulations.

This commenter expressed concerns about the different record retention requirements in the proposed regulations: one year for service charges but three years for education and

training records. This commenter stated that BTRO should have at least as great an interest in auditing charges for non-consent towing as for auditing for continuing education.

This commenter also stated concerns with the DPB study and disagreed with the minimal impact that would be offset by improvements in quality of service. This commenter stated that there would be a significant impact on small towers and urged BTRO to investigate this matter further with the small towers.

This commenter believed that these concerns justified the delay of the implementation of the regulations until the committee could know and fully understand their impact on the towing industry, and most importantly, upon the small towers who will be mostly severely impacted across the Commonwealth. There are enormous divisions among towers that need to be addressed and a few months is simply not enough time to find the solutions that are reasonable for all parties.

AAA Mid-Atlantic submitted written comments dated February 12, 2008, as follows: With regard to the DPB economic impact analysis, this commenter agreed with the statement that that one possible disadvantage to the public might be that a one-truck operation may elect to cease operating in a locality rather than seek licensure. This highly relevant statement was believed to conflict with the further statement about there not being any localities that should be disproportionately impacted from these regulations. This commenter believed that rural counties and municipalities risked suffering a disproportionate impact from the proposed regulations and licensing fees simply by the lack of revenue to offset the expense of complying with the regulations. This will most certainly result in fewer contractors to service the public in certain areas.

This commenter stated that BTRO cites 'Wreckmaster' as an example of courses that would meet the continuing education requirement. Such courses may not be permitted under the exclusions indicated in 24VAC27-30-180, which prohibits courses, like 'Wreckmaster', which actively promote products sold by Wreckmaster or their instructors.

This commenter agreed with the DPB analysis concerning small business costs will increase due to the licensure, decal, driver authorization document, examination, continuing education fees and time spent on exam preparation and continuing education. This commenter disagreed that the processes and fees would lead to increased business and greater profits due to the reduction of unscrupulous and poorly run businesses. Its conclusion is not substantiated by any research, study, or survey of the current state of these businesses or effect on this industry.

24VAC27-30-10 Definitions: This commenter recommended that BTRO add a third class of towing to be identified as 'Medium Duty Towing'. Currently, many Class B towers within the Commonwealth provide valuable towing and recovery service to trucks weighing up to 48,000 lbs. gross vehicle weight but do not provide full services to heavier vehicles of the Class A. The current regulation will require them to make a

choice (1) meet the more stringent and expensive requirements of the Class A to continue servicing these types of vehicles or (2) register as a Class B and no longer provide this level of service. If the choice is to register as a Class B, this would eliminate many operators currently in this business statewide. This could possible create a situation that limits services in rural areas thereby increasing incident response times, creating longer traffic delays caused by accidents or breakdowns involving these vehicles.

24VAC27-30-20 Fees: The current proposed fees do not take into account the size of a company. We recommend that BTRO consider a tiered fee structure, correlated to the size of a company, with the bigger the company, the larger the fee for licensing. This commenter recommended a reduced or pro-rated fee structure for licenses that will last less than one full year. This commenter objected to the proposed fee to be charged for verification of licensure to another jurisdiction or government agency. ‘Why should operators be levied a fee for this if it was not at their request that this information be provided?’ Such proposed fees should only apply if requested by the operator to an out of state government or private/commercial business. Other agencies within the Commonwealth asking for verification of licensing should be the duty of BTRO to provide.

An operator applying for a lapsed license should simply be charged the renewal fee and not a late fee. BTRO should either consider refunding application fees to applicants who are denied a license or should establish a lesser processing fee that would be more appropriate. This commenter also objected to the examination fees not being defined in the regulations.

24VAC27-30-30 General requirements for operator’s licensure: This commenter recommended that BTRO take a more pro-active step clearly identifying criminal conduct that would definitely exclude an operator or driver from being granted or possessing a tow license, including felonies involving violence, sexual crimes and vehicular crimes including theft and fraud.

24VAC27-30-50 Operator’s licensure by examination: This commenter reiterated his company’s concerns about and strong objections to the specific naming of The Towing and Recovery Association of America (TRAA) national certification as having already been approved by the board. According to this commenter, TRAA has extended exclusive distribution rights through state towing associations, which in Virginia is VATRO. This commenter stated that AAA Mid-Atlantic has repeatedly requested that BTRO consider the IIRT as not just equivalent but a superior product to the TRAA national certification since it is a comprehensive hands-on training program followed by an examination, and may only be taught by instructors approved by the Board of Directors of the IIRT. This commenter stated that BTRO needs to demonstrate that it is a fair and objective regulatory seeking the very best training at the lowest possible prices for those it regulates. ‘Anything less (such as the current language) is simply unacceptable, and probably cause for legal action.’

24VAC27-30-100 Unprofessional conduct: This commenter stated the following concerns about the content of this section. BTRO should require licensed operators to furnish the board with a price list indicating the maximum fees normally charged for all services they provide. This would be used in situations of investigating complaints of overcharging for services by the operator that BTRO may need to investigate.

This commenter stated that BTRO should amend the proposed regulation concerning the acceptance of credit cards for payment by only the owner of the vehicle. This provision should be changed to permit the operator of the vehicle to pay with a credit card. This commenter stated that such a change would support the intent of the legislation forming BTRO and would be better for citizens and the motoring public.

24VAC27-30-110 Standards of practice: This commenter disagreed with the position of BTRO to require special licensing for public safety towing. It is this commenter's position that public safety services be at the sole discretion of the governing local public agency, and that further regulation in this area may serve no purpose other than to jeopardize the safety of the motoring public and public agency responders waiting for assistance at the roadside.

24VAC27-30-140 Prerequisites for application for tow truck driver's application document: This commenter recommended that BTRO consider applicants that currently possess other licenses issued by the state that require fingerprinting and background checks equal to or exceeding the requirements of the tow truck driver's authorization document to be exempt from this requirement.

Hark's Towing and Recovery: This commenter stated his support of licensing of tow trucks and towing companies in Virginia. This commenter expressed shock that only one BTRO member attended the February 11, 2008, meeting. "The other members' absenteeism appears to show a lack of respect for the very people and industry they were appointed to regulate." This commenter stated his belief that the State had put the fate of the many in the hands of the few and that he believed that the majority rules.

The remainder of this individual's written comments have been reported in the companion comments summary document as they are general in nature.

***Hanover Towing:** In comments posted on the Regulatory Town Hall on February 27, 2008, this commenter questioned how BTRO would determine who qualifies to give the required training. This commenter stated that the training requirements should be every three to five years rather than every year. This commenter suggested if a tower could not pass a standardized test, then require the completion of training. In light of the large amount of insurance towers are required to have, if a tower can pass a standardized test why should they be required to have additional training. This commenter objected to the face-to-face training requirement, how that training has to be conducted, what training is no good and the licensee's presence and participation for at least 50 minutes.

This commenter asked if there is any way to make endorsement to the towing license like what the state currently does for the CDL license. Depending on the endorsements (private property towing, public safety towing, repossessions), it could increase the amount of the license as compared to the flat \$500 rate for a general license. For towers that do not tow for the police (public safety towing) or on private property, such towers should not have to comply with all of the additional minimum requirements that may be needed to provide different services.

This commenter's fifth question concerned the fee amounts and the projected numbers of towers and drivers discussed in the Agency Background document that accompanied the proposed regulations. The commenter calculated that BTRO would take in over \$1M in fees and charges and this commenter did not feel this was appropriate.

This commenter's sixth question concerned 24VAC27-30-100 items #4 and #5. This requirement states that, upon request, a tower would have to open his books and records to the board. This commenter objected to this stating: 'I should not have to show my records for my business that I conduct outside of public safety, private property, or repo.' This commenter objected to being required to tell the board where his records are maintained.

This commenter's seventh question concerned a statement in the Agency Background document about the board not being able to identify how many small towing businesses may elect to cease operating rather than seek licensure. This commenter questioned what efforts the board made to identify such businesses. The commenter added up the several costs (license, driver authorization, certification, fingerprinting, annual training) contained in the regulations and commented that these amounts collectively pose a large impact on companies that follow the rules.

This commenter's eighth question was about enforcement. Where or how do the regulations state how enforcement will be made to those who don't comply? It appeared to this commenter that the companies that follow the rules would be the ones that the most impacted.

This commenter's ninth question concerned the board's refusal to issue a license or driver's authorization to someone the board determined to be unfit. This commenter stated that this gave Big Brother too much room to govern who can do business. This commenter asked if free trade allowed an individual to decide if they should do business with this commenter. This commenter stated that he understood and agreed with a lot of the regulations with regard to public safety tows, private property tows or even repossessions, but normal free trade work?

This commenter referred to page 4 (Agency Background document) that discusses rogue companies and commented that such companies currently operate without insurance and asked why they would even bother to obtain licenses?

This commenter's eleventh question concerned the annual license and driver authorization requirements. This commenter stated that the annual requirement seemed excessive especially in light of the fact that mechanics' State Inspection License does not have to be updated every year.

This commenter's twelfth question concerned the statement in the Agency Background document that there are no localities that should expect a disproportionate impact from these regulations. This commenter wanted to know how this was determined.

This commenter's thirteenth question concerned the 'Alternative Method that Minimizes Adverse Impact'. This commenter observed that the statement 'There are no clear alternative methods that both meet statutory requirements and reduce adverse impact' could not be true. This commenter stated that he had suggested several himself. This commenter also asked where the item is explained or discussed that concerns the projected reporting, record keeping, and other administrative costs required for small businesses to comply.

This commenter's fourteenth question referred to 24VAC27-30-70, item 7. This item addresses trucks being operated by an employee of the dealer or manufacturer for the sole purpose of transporting to and from the location of sale or demonstration. This commenter asked about the circumstance when a company needs to rent a truck because the company-owned truck is in a repair shop or the repair shop wanted to lend the company a loner truck if the situation was called for.

This commenter's fifteenth question concerned 24VAC27-30-80 and asked what qualifies as an emergency to transfer an operator's license.

This commenter's sixteenth question concerned 24 VAC27-30-100 which stated that if all a company does is repossessions, then the truck does not have to show the company name. This commenter asked how the board would know in fact that repossession is all that the company is doing.

This commenter's seventeenth question referred to 24 VAC27-30-110 item 4 concerning minimum insurance requirements. Why are the requirements the same for class A and Class B? Class A is hauling items worth much more than any class B would be able to. This commenter asked if the \$50,000 limit had to be for each truck and if so, this seems high for Class B.

This commenter's eighteenth question referred to 24VAC27-30-110 item 9 that stated that operators shall not provide public safety towing and recovery services unless they have met the criteria established by the board. This commenter asked how any company could comply with this standard by July 2008 or even 2009 if the standards have not been completed. Are these companies going to have to operate illegally based on these regulations going into effect without having the supporting items being completed?

This commenter's nineteenth comment referred to 24VAC27-30-110 item 16 concerning the posting of fees. What about the operator that does not handle public safety, repossession or private property towing?

This commenter's twentieth question referred to 24 VAC27-30-130 concerning anonymous complaints received by the board being handled in accordance with the board's policy and guidance documents. What are those documents? Do we have the right to face our accuser? What is going to be required to substantiate a complaint? What is to prevent false complaints?

This commenter's twenty-first questions referred to 24VAC27-30-160 items 2 and 3 referring to a driver at the point of applying to the board for an authorization being required to supply his employer's name as part of his application process. This commenter stated that drivers sometimes have stays between jobs. Why does a driver have to be employed by a company to maintain a towing license? If he does not, then why does the license have to have a board-issued license number of the driver's employer?

This commenter's twenty-second questions concerned 24VAC27-30-160 items 6 and 7 about drivers being required to sign statements that they have complied with the requirements if the operators also have to verify they are licensed. This commenter wanted to know why the board needed to know what driver is working for which operator. Referring again to automotive State Inspectors, this commenter stated that these licenses are in effect regardless of who these persons work for.

This commenter finalized his comments with the observation that the board is trying to over-control the industry and interfere with free trade. This commenter observed that his company already complied with all the requirements other than having a license, which is not yet available.

This commenter, on February 28, 2008, posted an additional comment on the Regulatory Town Hall: "I have not found anything in the General Regs showing one of the impacts to the public being higher cost to receive services. If we are being charged all of these high fees and now have to comply with so many regulations, if we are going to be able to stay in business, those fees are going to have to be passed on to the consumer. One of the reasons for the start of this board was because someone felt that they had been charged too much. How are they going to feel now when those prices have to go up 50% to cover the additional cost in training, insurance, background checks on ourselves, fingerprinting, license fee, etc. Should the board not be required to point that out when they present their recommendations to Senate Transportation Committee? Who truly will end up feeling the impact of all these fees? The consumer!"

This commenter, on March 1, 2008, posted additional comments on the Regulatory Town Hall: Based on the proposed regs, this commenter would be considered an operator. In the ten years of being an operator, this commenter has never towed a vehicle. The only time he has driven his trucks is to take them for repairs or if they were needed in another

location. He charges correctly, carries insurance, has the required equipment as specified in the regs, and provides outstanding customer service. This commenter does not personally have the knowledge to efficiently clear an accident scene. This commenter reads and understands the laws and enforces them with his drivers. This commenter stated that he probably could not pass the TRAA level 1 test because he does not drive tow trucks but runs his business. According to the regs, he could not qualify for a license after year one or he would have to designate someone who could pass the test. Operators should not have to qualify at any point for minimum standards of testing, knowledge, future training. These things should be required to obtain a driver authorization document. "It appears based on the fee structure that a separate designation between the two is fully made, but the two (operator and driver) are often blended together in regards to requirements. To qualify as an operator, the operator should have minimum insurance, trucks labeled, safe equipment, For Hire tags, but not the other items that are more important for drivers."

This commenter referred to 24VAC27-30-140, item 6 in that applicants should have to certify that he has been convicted of any criminal offense rather than has not.

This commenter referred to 24VAC27-30-30, item 5, this commenter asked what happens when you are working with a corporation that has multiple stockholders who are the owners of the company.

This commenter, in a comment recorded on the Regulatory Town Hall on March 21, 2008, asked when the review of all the submitted comments would take place. This commenter observed that such review should have to take place in a public meeting.

Sunbight Towing Service: *This commenter registered these comments on 3/10/2008 on the Regulatory Town Hall. Only two of these comments seemed to be immediately relevant to the proposed regulations undergoing comment period. Those two comments are summarized here. The remaining comments record 3/10/2008 have been summarized in the companion summary document.*

This commenter observed that there are regulations for insurance requirements and haul permits that are already in place for commercial carriers. This commenter asks if these existing requirements apply to tow trucks as commercial vehicles. Its commenter stated that with changing times and changing needs due to the size and type of vehicles on the road that demand larger tow trucks. This commenter stated that he had had to upgrade his equipment to medium duty to have equipment available to answer police regardless of whether winching or flat bed towing was needed.

***Commenter: Jenny Herrit:** This commenter posted these comments on the Regulatory Town Hall on 2/22/08. This commenter expressed concern about the lack of information that is being given to towers and the public. "To have a fair and equal board, all towers must be given a voice." This commenter noted that another problem not being

discussed is the different equipment needs for towers operating in the mountain areas of the state as contrasted to the coastal areas of the state. Towers operating in the different areas need different equipment.

***Coliseum Towing Service:** This commenter posted these comments on the Regulatory Town Hall on 2/27/08. This commenter stated that the regulations are still alive. This commenter stated that the debate was still going on in the House Transportation Committee regarding whether to make the effective date January 1, 2009, or keep it as July 1, 2008. Debate is also taking place about whether to keep a Class A tow operator as the chairman of the board or to allow a Class B operator to rotate as chairman with a Class A operator. This commenter stated that the General Regulations that are undergoing comment period will go into effect July 1, 2008, unless the date is changes. This commenter emphasized that the purpose of the Regulatory Town Hall is to accept comments about the proposed General Regulations. This commenter noted that the site is not for comments about the public safety regulations that are to be posted at a later time for comment. This commenter noted that “posters on this comment site should address their concerns regarding the General regulations that have been presented for comment.” This commenter further stated that in his opinion the regulations are excessive, abusive of decent business men; their enactment will smash small companies to death with ridiculously high fees and requirements that will drive costs of operation through the roof.

This commenter has made several general comments that were less specific to these proposed regulations but to the board and several towing associations. These general comments have been summarized in the companion summary document.

This commenter also submitted comments, dated January 31, 2008, to the Governor. Even though the commenter labeled the comments as pertaining to the public safety regulations, which are not undergoing this comment period, several of the included comments seemed, by their content, to pertain to these general regulations. Therefore, those comments have been summarized here:

Item 4: This commenter stated that BTRO has not indicated any concern for the continued existence of small tow companies which make up most of the industry and has not conducted any studies to determine the impact on these companies or what steps could be taken to preserve small and minority owned operations.

Item 5: This commenter referred to several points contained in the agency discussion document concerning rogue operators, tow operators not notifying law enforcement agencies when vehicles have been towed from private property, tow operators who refuse to carry business insurance, tow operators who fail to operate in a safe manner. This commenter stated that the board had not conducted any studies to ascertain if the existing laws that govern these activities have been enforced by police. This commenter stated that other industries are not required to accept credit cards and the board has not provided a reason why tow companies should come under a legal mandate to do so.

Item 6: This commenter pointed out that no other profession in the state is required to have annual fingerprinting and criminal record checks as BTRO is proposing for tow operators and drivers. "...there is no indication that the need for a tow operator to prove his innocence every year is a reasonable action of government." This commenter stated that fingerprints never change and annual fingerprinting is not necessary in order to perform a legitimate criminal records check. Even released felons on parole are required to submit to annual criminal record checks.

Item 7: This commenter stated that BTRO noted that 'one-truck' operations may go out of business rather than meet the requirements. This commenter stated that BTRO did not conduct any studies to determine how many companies would be forced to close or why this would be desirable.

Item 8: BTRO states that the minimum license fee of \$500 is not a problem but has failed to justify why it is a legitimate amount to be charged to every tow company in the state.

Item 11: Concerning the issue of the board's position about the public being safer by preventing tow operators who have committed certain crimes from operating tow vehicles, this commenter states that BTRO has not conducted any studies to determine how many citizens have been victimized by criminals in tow trucks, which type of criminal generally commits offenses against driver, or how many arrests or prosecutions for such crimes have taken place.

Item 13: This commenter states, in response to the BTRO statement that standardizing the equipment used by tow services is essential, that 'no study has been made to determine if the towing equipment currently used is inadequate or what equipment is needed.' This commenter states that BTRO has chosen to dictate that tow companies use standard equipment without consideration of the differences in needs from one area of the state to another. Mountainous areas of the state require different equipment from the Tidewater area.

Item 15: This commenter states that BTRO is requiring towing equipment that is not standard to the industry and would create great expense to companies that would have to order the special equipment to comply with the regulations. BTRO's standards have not been endorsed by any recognized organization such as Towing and Recovery Association of America, Wreckmaster, or the Society of Automobile Engineers. "There is no indication that BTRO ever conducted studies to ascertain if the equipment specifications it is requiring are necessary, would improve safety, or produce better quality work. The minutes of meetings for BTRO do not show whether it consulted with any of the manufacturers of truck chassis (such as General Motors, Chevrolet, or Ford) or any manufacturers of wrecker bodies (such as Miller Industries or Jerrdan). BTRO did not contact any mechanical engineers to obtain any opinions of the standards that should be imposed nor did it consult with tow equipment sales agents to see if the required equipment would be an improvement over existing equipment."

Item 19. This commenter stated that BTRO has a legal mandate to complete all regulations by July 1, 2008. In spite of this, BTRO has not considered the need nor made provision for temporary permits in the event it is unable to process in a timely fashion all the applications from over a thousand tow companies statewide. It has not developed a plan for how to handle applications, has not purchased equipment to allow for rapid processing, designed a training plan for employees, made any effort to determine job qualifications or began to accept applications for employment.

Item 20: This commenter stated that the Executive Director had stated that the agency does not know how many tow companies there are in Virginia or how they will be notified that they are covered by the new regulations. The board has not conducted any survey to determine the number of companies nor has it hired anyone to conduct the study. Therefore, BTRO cannot determine the effect its regulations will have on the industry.

The remainder of this individual's comments, dated January 31, 2008, were either general in nature or more specific to the agency's public safety working document. The public safety working document is not yet proposed regulations undergoing public comment so those public safety comments have not been included here. The other comments of a more general nature have been included in the companion document.

Big Bertha's Towing & Equipment: This commenter, in a comment recorded on the Regulatory Town Hall on March 12, 2008, requested the extension of the comment period on the proposed regulations. The request was that the close of the comment period be moved back until June 27, 2008, in order to allow more time to consider the volume of proposals, changes, suggestions, and ideas.

This commenter, in a comment recorded on the Regulatory Town Hall on March 20, 2008, repeated his request that the comment period on the proposed regulations be extended to June 27, 2008.

***Calvin's Low Price Towing:** This commenter, in a comment recorded on the Regulatory Town Hall on March 14, 2008, stated that BTRO should be required to mail to all towing companies that have a business license and pay taxes a copy of all new laws being considered with a comment space for every towing company to respond. This commenter stated that many companies had no idea what was going on. This commenter stated that he disagreed with the proposed fees and said if they are to be imposed then they should be reasonable. Towing is a very costly business. We do not want to drive small towing companies out of business. If the laws do what many have said they will do, Virginia will suffer. There are a huge number of motorists on the road and the small towing businesses are needed. If the new laws are too harsh, it may drive many towing businesses out of business.

This commenter also stated as contractors for AAA, we have been doing criminal background checks for years but he questioned the requirement for fingerprinting. If fingerprinting must be done, it should be a 'uncostly' (*sic*) way for towing companies.

This commenter was opposed to high fees that are proposed. He was opposed to drivers being required to carry \$100 in cash to make change (because of safety concerns for drivers), opposed to being required to accept personal checks, opposed to being required to accept credit cards (because of the cost to do so).

***E&M Towing:** This commenter, in a comment recorded on the Regulatory Town Hall on March 17, 2008, stated his agreement with most of the other views posted on the Town Hall. This commenter asked if there are petitions that could be signed.

***Anonymous:** *There were several comments made by Anonymous person(s). There is no way to know if the various comments attributed to Anonymous are the same or different persons.*

One commenter, in a comment recorded on the Regulatory Town Hall on March 17, 2008, stated, in referring to **26VAC27-30-65** Section O, that it was not fair that an operator who wanted to provide towing and recovery services for vehicles of gross weight over 26,000 lbs must be licensed as a Class A operator. This commenter stated that the requirements for Class A operators put an unfair burden on small operations that provide this service. This commenter stated that this was restraint of trade.

Another commenter asked if drivers who have been denied can collect unemployment.

Another commenter asked how he could afford to wait, from earning a paycheck, to take a class or wait for the (authorization) card. This individual asked if it is thought that he could afford to pay for background checks and fingerprinting as well as the money to obtain an authorization card. This individual also stated he would have to take time off from work do all this.

***Rob M:** This commenter, in a comment recorded on the Regulatory Town Hall on March 18, 2008, asked by what right this non-elected body has to impose fees and fines on us, the towing community. This commenter stated that everyone who has a tow truck should park his truck for one day to make the point to so that politicians will take notice of these concerns.

***North Star Towing:** This commenter, in a comment recorded on the Regulatory Town Hall on March 20, 2008, stated that he felt that the regulations were being made to make it harder for the small guy to stay in business. The large towing companies are just trying

to put the smaller ones out of business so they can have their monopoly. We feel that these rules should be fair to everybody.

***Metro Towing Company:** This commenter, in a comment recorded on the Regulatory Town Hall on March 20, 2008, stated his concern that the members of the industry as being portrayed as a band of outlaws taking advantage of everyone in our path. 'This could not be further from the truth as we are productive members of society providing a valuable service to the police and the public.'

This commenter further disagreed with the agency background document statement that said that individuals and businesses are not licensed and regulated. This commenter pointed out that all drivers are licensed by the Virginia Department of Motor Vehicles, the businesses are licensed by the localities where we reside, and the industry is closely watched by local towing advisory boards. The local police department does a fine job keeping a towing company in check when there is a complaint. Virginia Beach uses a towing comment survey form that is given to each non-consensual and police tow. Complainants mails in the form with their contact and tow information. This permits the towing company to present its side of the story when being accused of wrongful conduct.

With regards to the issue of finger printing in the regulations, the president of his company must be finger printed in order to maintain this company's position on the police list. "Each employee must be submitted to our insurance company before hiring to ensure that each driver has an acceptable driving record." This commenter wanted to know how many citizens have been the victims of crime committed by a tow truck driver.

A major disadvantage to the public, employees, and the towing company is this will raise the cost for everyone involved. The prices will have to be increased for the consumer. The increased cost will affect the amount of employees that a company can hire and it will affect the type of equipment a company can afford. This will affect the small towing company by creating a hardship that may lead to their demise.

This commenter also stated his concern about the education requirements. What constitutes a reputable educator? This industry is not taught by a book but years of hard work. What cost will be imposed for this education?

This commenter expressed concern about the enforcement of the temporary trip permit requirement. Are police departments supposed to check every tow truck for the decal? If a tower is caught, what is the punishment?

***Century Towing Service, Inc.:** This commenter, in a comment recorded on the Regulatory Town Hall on March 20, 2008, stated that he has legal 'WT' tags on all his tow trucks and he pays additional fee to DMV for 'intrastate operating authority'. It is this commenter's understanding that this fee goes towards the regulation of the towing industry. This commenter questioned why we needed to be regulated twice? Will DMV

refund those paid fees as well as remove future fees associated with intrastate operating authority?

The remainder of this commenter's comments pertained to concerns not specific to the proposed regulations and has been included in the companion document.

***Rusty's Towing Inc.:** This commenter, in a comment recorded on the Regulatory Town Hall on March 20, 2008, stated that Newport News already has a towing board and this plan will hurt us even more. This commenter referred to 24VAC70-30-15 and stated that the fees are too high.

This commenter stated that the junk man makes more in one week that we do for hire but they will not have to follow the rules as for hire. This commenter asked what board is going to follow up on them.

This commenter asked why Northern Virginia does not have regulations by now. He stated that he had been to some tow lots and they are charging \$300-\$600 for state and \$200 for city police as well as charging for labor. This is too high and they need a towing board. This commenter asked where in the city or state code it permits him to charge for labor?

***Petes Custom Auto Service:** This commenter, in a comment recorded on the Regulatory Town Hall on March 21, 2008, stated that he has been in business for 50 years and has been building his own tow trucks. He stated that his trucks have proven their performance, safety, and capability to do the job. This commenter stated that he needed a company that could certify these trucks.

In a second comment, this individual also stated that towers should be able to use the background checks by the local police departments. In a third comment, this individual stated that the fees are not reasonable. Tow companies have to pay DMV fees, city license fees. A lower fee should be charged to the tow company and not the individual employee.

***Parkview Towing:** This commenter, in a comment recorded on the Regulatory Town Hall on March 21, 2008, asked what impact would the new regulations have on the general public. "Rates will increase due to overhead and wait time will increase due to a decrease in companies and drivers." In a second comment, this individual addressed the issue: "if a driver is denied authorization for whatever reason and the driver appeals it, do they appeal to the same board that denied them to begin with—how is that fair?"

This individual asked about the impact on insurance companies from loss of income from towing companies that down size or cease operation. Raising costs due to tow companies raising fees for towing to and from auctions, roadside assistance. This individual stated

that localities should enforce the regulations. If the localities deny/approve drivers then the drivers who are denied can appeal to the board. This individual stated that the localities should perform the background checks and the fingerprinting. Fingerprinting should only be done once since fingerprints do not change. Background checks should be done every 2-5 years.

This individual asked how many drivers will wait to go to a class before being able to work. How many are willing to wait on this card? How many could afford to (wait)? This individual observed that people are not lined up to be tow truck drivers. This individual asked if high schools had been surveyed to determine how many students are anxious to be tow truck drivers.

This individual stated that the operator's fee should be refundable if the company is not approved.

This individual asked what happens when there are only one or two towing companies in a locality and one or both take vacations or have family emergencies. Who is going to tow for the locality? "How will this affect that company with their locality and the consumer?"

***Melinda:** This commenter, in a comment recorded on the Regulatory Town Hall on March 21, 2008, if a driver has to leave a company for any reason relating to the board denial or company closing down, will there be a driver relief fund to help support the driver's family while the driver looks for other work or awaits the authorization card?

In a second comment, this individual asked if anyone had talked to the local high schools, trade schools, and colleges to determine if they would offer towing courses.

***Cousins Towing & Recovery:** This commenter, in a comment recorded on the Regulatory Town Hall on March 21, 2008, stated that the new regs would go into effect January 1, 2009. This commenter observed that it was funny that there are no requirements for training in the operation of equipment that is deemed necessary to comply.

***Buddy's Towing Service:** This commenter, in a comment recorded on the Regulatory Town Hall on March 21, 2008, stated that the fees are excessive for small tow companies (one or two truck operations, usually family owned and operated). "Most of these small companies provide services in their home communities and most try to offer services at a reasonable cost, usually at or just above the motor club service fees."

This commenter stated that everyone in this business discovers that no one can exist very long at the motor club rates and as more extensive regulations and fees are applied, will be forced to raise their rates or end up going under financially.

This commenter suggested that the fees be reduced to \$100 or 1/5 or 20% of what is proposed and the license fee should include the owner and one truck. All other trucks should be no more than \$10.00 each per year and all tow trucks should be WT licensed.

***Goldwrench Automotive:** This commenter submitted written comments to the Executive Director dated March 21, 2008. This commenter expressed his serious concerns about the short amount of time to implement the regulations and the potential negative impact on his ability to legally operate his business. Even if the Senate Bill 707 is passed, the implementation timetable is very short considering the broad regulatory powers given to BTRO and the significant lack of details regarding the specific requirements the board is imposing on operators.

This commenter asked how long the board feels it needs to properly consider the concerns expressed from operators during the past three months. This commenter also asked what changes the board felt it needed to make based on the comments.

24VAC27-30-20 Application fees: This commenter stated that the board had established an application fee structure that is repressive to small business. (\$510 for a one truck operation versus \$600 for a ten truck operation) This commenter suggested the alternative of a \$50 application fee and \$100 per truck as this would reduce the barrier to entry for the small business owner and would therefore allow for more competition. "Our government should allow the free market to dictate competition rather than have large regulatory costs for small businesses, which limits competition and therefore raises the cost to the public."

This commenter asked why the application fee is not structured to be progressive so that as a business becomes larger, the costs are more linear with the size of its revenue. The current cost structure appears to be too expensive.

The commenter stated that the board's basis of the number of operators that would be affected appeared to be too low. He calculated approximately 6,400 businesses, based on the number of businesses serving the Waynesboro area, that operate tow trucks statewide that would be affected by the proposed regulations. This number of operators would provide over \$3.2 million dollars in collected revenue for the board and an additional \$1.6 million for an estimated 5 drivers per business (at \$50 each). This commenter asked if the board would consider a lower registration fee structure until it has at least one year's worth of actual revenue data. This commenter pointed out that the industry would be better served if the imposed costs were significantly less and were based on a progressive method so as not to punish the small businesses. In addition to the referenced registration fee, this commenter also referred to costs associated with fingerprinting, background checks, and training and certification examinations.

This commenter noted that the driver license renewal each year (to cost \$50) and annual re-training seemed to be a micromanaged process, therefore requiring excessive cost to

implement. The commenter referred to the different certification/re-certification standards and costs for public school teachers. This commenter asked about the board's basis for requiring an annual renewal of drivers' certification. It seemed reasonable to him that a driver's certification should be longer than one year. The more frequent re-certification process is unnecessarily costly and adds overhead to everyone's operating costs.

24VAC27-30-180 Training requirements: This commenter stated his support for safety training and thought it should be part of the re-certification process. However, compressing this to an annual basis makes the process unnecessarily intensive. Currently, the list of approved training suppliers is very limited and therefore costly. "Before requiring training, I feel the board should develop a detailed list of training specifications so that other training opportunities can be developed. "...local towing operator clubs could establish qualified trainers from within their own ranks for a fraction of the cost for the current training course options." Instead of the proposed deadline of 2011, "does the board feel that it has the responsibility to have that date imposed only after it has established specific training guidelines that allows operators to have adequate training options in order to make it more affordable?"

This commenter expressed his concern that the timeline would place businesses in jeopardy of being out of compliance with the new requirements and subject to misdemeanor charges. The proposed costs imposed on businesses are expensive. This commenter requested that the board consider ways to reduce regulation, delay implementation until adequate time is allowed to fully consider the input of affected owners and evaluate ways to reduce costs to small business owners.

***Bowman's Towing:** This commenter submitted written comments to the Executive Director dated March 21, 2008. *Most of this commenter's points in these written comments did not appear to be specific to the content of the proposed regulations. Such comments have been summarized in the companion document. The comments that were specific to the proposed regulations are discussed here:*

This commenter stated that the proposed rate structure is not favorable to the small man who knows what he can and cannot do with the equipment that he has. The more equipment he has determines his overhead and operating cost but if you force him to buy equipment he can't use, it forces him out of business. This commenter stated that he was not opposed to all of the proposed rules. This commenter asked that the board consider using the extension provided by SB 707. The commenter asked why the budget impact did not consider the cost of all the fees and costs involved in these regulations. This commenter asked why a State Police background check was not good enough.

***Roger Kite:** This commenter submitted written comments, dated March 21, 2008, via Delegate Landes' who forwarded them to the Executive Director.

This commenter stated that the \$500 fee is expensive for small businesses and should be considered for operators who tow for hire and for the police. The fee should be less for people who only tow for hire as they are getting less business if they do not do public safety towing.

This commenter questioned why someone who has been in business for 30 years should have to meet the educational requirement. The additional education is not justified at this point and this commenter suggested that it be available for persons wishing to start a towing business but no longer require it after five years (or some other number) in the business. Operators should not be required to purchase expensive new equipment (the towing/recovery truck plus one rollback requirement).

This commenter stated that operators should not be required to accept one of two major credit cards. There is an expense to the operator for providing this service, which as with other businesses, they are required to pass on to the customer in the form of increased charges. It should be a tow operators' choice to provide this service option to customers.

The remainder of this individual's comments did not speak directly to the content of the proposed regulations and therefore have been summarized in the companion summary document.

***Kathy Kite:** This commenter submitted written comments to the Executive Director dated March 17, 2008, and expressed concern about the proposed fee amounts.

Of greater concern to this commenter was the reference to unscrupulous and poorly-run operators leaving the industry. This commenter made the point that just because a business was small did not mean it was necessarily unscrupulous or poorly-run. A small business with just one employee can only be open a limited number of hours per day and only handle a limited amount of business. This does not mean that the operator is not honest and hard-working. The cost of staying in business can also force a small business out even when they are not unscrupulous or poorly run. This commenter suggested that the board go after the rogue towing operators rather than make it hard for honest, hard working individuals to stay in business. This commenter asked what in the proposed regulations is going to prevent rogue operators from being in business. The regulations appear to only make it hard for the small business owner to maintain his business.

This commenter asked, with regard to the continuing education requirements, if being in business for 10 or 20 years merited an educational experience. This commenter could understand such an educational requirement for a new operator or one having 5 years of experience or less.

This commenter asked how requiring operators to accept credit cards is an issue of public safety. This commenter could see no reason to make the acceptance of major credit cards a mandatory requirement and certainly not make it an issue of unprofessional conduct.

The commenter urged the board to retain the no cost requirements contained in the regulations (set out below) but delete the costly requirements. The no-cost requirements cited by this commenter are as follows:

- 1) provide the name of the individual or business entity under which the applicant intends to be licensed plus any and all trade or fictitious names under which the operator conducts or offers towing and recovery services
- 2) advise the board of the physical addresses of the principal office and all additional satellite facilities
- 3) designate a Responsible Individual who shall be responsible for assuring that the operator conforms to applicable laws, etc.
- 4) list the principal owners' names and all other individuals involved in management/operation of the business
- 5) provide the board with information indicating all trucks owned, leased, or used by the operator

The comments submitted by this commenter concerning the BTRO Public Safety regulations have not been summarized here as these comments refer only to the BTRO General Regulations.

***Sonny's Service Center:** This commenter submitted written comments to the board dated March 19, 2008, concerning the proposed fees. These additional fees will mean that I will have to increase my rates.

***Virginia Association of Towing and Recovery Operators (VATRO):** This commenter submitted written comments to BTRO dated March 19, 2008, as the largest trade association representing towing and recovery operators consisting of approximately 70% of Class B operators. VATRO supported the regulations as proposed.

VATRO stated that it found it regrettable that certain operators did not understand that the general regulations do not address the public safety regulations that have yet to be proposed. VATRO recognized that most of the proposed regulations mirrored the statute reflecting the minimum standards by which all reputable operators already and currently adhere to.

VATRO supports the license fee structure with the understanding that once the board is able to ascertain the specific number of licensees, the fee schedule will be adjusted. VATRO supports having one license fee rate per operator, regardless of Class A or B, recognizing that it is the business entity that is being licensed and not the number of vehicles owned/used by the operator. The processing of operators' licenses should be the

same regardless of whether the operators are Class A or B. The additional decal fees being tied to the number of wreckers is appropriate. Similarly, larger operators will have additional costs of documenting larger numbers of drivers.

VATRO supports the continuing education requirements for re-licensure and renewal of driver documentation. It is VATRO's position that the proposed regulations provide for a wide variety of what will be readily accessible educational opportunities at little cost as the requirements may be met by online or correspondence courses. VATRO pointed out that more individuals in the towing and recovery business are injured and killed than law enforcement, fire and rescue personnel combined.

Sandy's Service Center Towing: This commenter submitted written comments to the Executive Director dated March 5, 2008, concerning several topics. Most of the comments were not specific to the proposed regulations and have therefore been summarized in the companion document. The comments specific to these proposed regulations are as follows:

This commenter questioned if he would be grandfathered on the tow trucks he already owns and are paid for. This commenter stated he could not afford to buy new trucks. This commenter also asked that he be mailed the new can's and do's.

All State Towing and Repossession Service: This commenter submitted written comments to the Executive Director dated February 8, 2008, stating his disagreement with several of the regulations. This commenter stated that the regulations would have a profound impact on small businesses. This commenter stated that these regulations are in conflict with the Governor's initiatives aimed at helping small business owners.

This commenter stated that the board has no way to know who illegal towing operators are nor to contact them since most of their vehicles are registered with incorrect information and are driving with personal license plates. This commenter stated that the board has no resources to enforce these regulations. "These proposed regulations will have no effect on the unlicensed operators without appropriate enforcement. If the current licensing and registration laws are not being effectively enforced, how can we expect any new regulations to be effectively enforced?"

Fees (24VAC27-30-20): What rationale was used in setting these proposed rates?

Accepting credit cards (24VAC 27-30-100): This has an adverse affect on smaller businesses because of the monthly cost of the machines and the per transaction percentage fees.

Drivers submitting to criminal background/fingerprinting (24VAC27-30-140): Where are the tests going to be administered? What is the estimated turnaround time for having the board review and approve? In the meantime, does the company come to a complete halt until a decision can be made?

TRAA Certification (24VAC27-30-180): These certification programs are not readily available in all areas of Virginia and substantial costs and time are involved.

This commenter stated his belief that these regulations would force legitimate businesses to comply or cease to operate. This would create dangerous situations without tow operators being available particularly in rural areas of the state. This commenter stated his opposition to the regulations and to the board if the board could not ensure equal enforcement for everyone.

Berryville Auto Parts: This commenter submitted written comments to Senator Vogel and Delegate May dated February 20, 2008, and expressed his concerns about the proposed regulations.

This commenter stated that more meetings are needed in areas that are more readily accessible. It is not practical for small business people to have to travel to Richmond for just a few minutes to speak in a public hearing.

Being one of four towing companies in Clarke County, the regulations would eliminate all four companies without the expenditure of large amounts of money. AAA contacted us and based on the size of our company and current equipment, we would have to pay over \$900 to the board.

These additional costs would have to be passed on to our customers as rate increases.

Even with our current equipment, we would be required, by these proposed regulations, to purchase a new wrecker (at a cost of \$65,000) because we don't have the required hydraulic type equipment. We have successfully performed State Police towing with a rollback. In 2006, we responded to 1,019 tow calls and used a wrecker 7 times. It would not be a prudent business decision to purchase a \$65,000 wrecker to use seven times a year.

There has not been ample notification or communication with all towers to provide input on all the issues that these regulations bring up.

Annual training is unrealistic. Due to the few available training companies, we would be required to send all employees at a per person per year cost of \$300. Training cannot substitute for years of towing experience.

If the board must be continued, then the state should be divided into districts so that each district would have representatives rather than having board members be chosen from the towing associations in Virginia. Such associations have high dues and not all small businesses belong to them.

M&M Motors (Valley Towing & Keller Towing): In written comments submitted to the Board, dated March 20, 2008, these commenters stated:

24VAC27-30-20 Fees: It is not necessary to have permits renewed annually, whether it is an operator's or driver's, as this is exceptionally onerous to small businesses. An informal survey of other regulated professions such as contractors (2 years), real estate agents (2 years), opticians (2 years) shows few other professions require an annual renewal.

24VAC27-30-70 Exemptions: The board cannot interfere with interstate commerce. The board can regulate towing that takes place intrastate but may not regulate interstate commerce regardless of which end of the trip is within Virginia. This section was recommended to be stricken.

24VAC27-30-110 Standards of practice: These commenters recommended that this section be amended by adding 'minimum' since many operators carry higher limits of insurance. As currently written, an operator can be in technical violation of this section if he carries a higher limit of insurance. These commenters asked what was meant by 'impersonating'. They are aware of companies, in different areas of the state that have the same name but are not related. This section requires more information so an operator is not in technical violation.

24VAC27-30-130 Expedited process to consider consumer complaints. "The Board cannot reference 'policy and guidance documents' without having those documents already prepared. Since the 'policy and guidance documents' are incorporated into the proposed general regulations by reference, it is a violation of Code of Virginia to not have those documents available for public reference and comment at this time. We recommend you either strike this section to amend it at a later time; or immediately provide the referenced documents."

24VAC27-30-140 Prerequisites for application for tow truck driver's authorization document: These commenters' first issue was with the annual nature of the driver's authorization document. These commenters pointed out that DMV allows a Class A CDL holder to go 5 years before renewal. The annual renewal was seen as being excessively onerous to small businesses and the commonwealth was not served by this requirement. These commenters recommended that the board change this to a multiple year licensing scheme. The annual requirement for fingerprinting and background checks was also an issue for these commenters. They pointed out that the Virginia State Police testified before the General Assembly that fingerprints are not required for a background check to enable a citizen to receive a concealed handgun permit. These commenters recommended to the board that it strike the fingerprinting requirement as it is not required for a full and accurate background check. It also doubles the cost to an operator for his drivers. These commenters also recommended to the board that it state whether the background check for drivers is a recurring requirement or a one time requirement for initial licensure.

24VAC27-30-160 Requirements for drivers: These commenters asked why the driver's authorization document must be tied to what company the driver is employed by. They recommended that the board amend the regulations such that the employer of a duly authorized driver has no bearing on their driver's documentation. The board should not be involved in what company or companies a given driver is employed by.