

**INTERAGENCY MEMORANDUM OF UNDERSTANDING
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS
NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
DIVISION OF STATE HIGHWAY PATROL**

REMOVAL OF VEHICLES FROM ROADWAY

This Memorandum of Understanding (MOU) made this 31st day of May, 2019 by and between the North Carolina Department of Transportation (NCDOT) and the North Carolina State Highway Patrol (SHP) is to provide guidance for implementation of the Quick Clearance provision of N.C.G.S. 20-161(f) on the state highway system.

WHEREAS, in an effort to minimize the potential personal injury and/or economic loss associated with disruptions to the regular flow of traffic, the North Carolina Legislature has enacted specific legislation authorizing the immediate removal (Quick Clearance) of vehicles and/or property which interfere with the regular flow of traffic or otherwise constitute a hazard on the state highway system; and

WHEREAS, these parties herein recognize the potential hazards and economic loss that may occur from wrecked, abandoned, disabled, unattended, burned, or partially dismantled vehicles, cargo, or other personal property on the state highway system when such occurrence or condition interferes with the regular flow of traffic; and

WHEREAS, the North Carolina Legislature has vested in investigating law enforcement officers the authority to immediately remove or cause to be removed such vehicles or property only when such vehicle or property interferes with the regular flow of traffic or otherwise constitutes a hazard and when done in conjunction with the concurrence of the North Carolina Department of Transportation;

NOW THEREFORE; the North Carolina Department of Transportation and State Highway Patrol each agree to the following described guidelines and delineation of specific authority and obligations in order to implement the provisions of the Quick Clearance legislation.

I. General

Whenever a state highway is closed or partially blocked by a wrecked, abandoned, disabled, unattended, burned, or partially dismantled vehicle, cargo, or other personal property, the priority shall be to clear the road and reopen the roadway as soon as possible. It is understood that damage to vehicles and/or cargo may occur as a result of clearing the road on an urgent basis. Nonetheless, while reasonable attempts to avoid such damage should be taken, the highest priority is public safety. Additionally, while consideration for the vehicle and/or owner's preference for utilization of a wrecker

service and related service providers and for the integrity of the power unit, trailer, and cargo are not to be ignored in every circumstance, public safety and convenience of the motoring public shall be paramount. Consistent with this public safety and motoring public priority, the following procedure is hereby established.

II. SHP Duties and Responsibilities

Members of the State Highway Patrol who respond to any of the above-described conditions (vehicle crashes, spilled cargo, etc.) on the state highway system must make an initial assessment of the scene and determine if the Quick Clearance provision of N.C.G.S. 20-161(f) are appropriate.

While it is understandable that vehicle and cargo owners may desire extreme measures be taken to protect their property from further damage, such measure may not be prudent if it is a time-consuming endeavor that will require restricting the flow of traffic or may constitute a hazardous situation. In such cases, the authority of N.C.G.S. 20-161(f) should be utilized to get the vehicles and cargo off the road so that the flow of traffic may resume in a timely manner.

Consistent with the need to get the highway open, if required, members of the State Highway Patrol will conduct their required investigation in as expedient a manner as possible, considering the severity of the collision and the need to maintain a high quality investigation. This may mean that certain “non-critical” portions of an investigation be conducted at a later time when traffic congestion is non-existent (i.e., non-peak periods). However, in the event of a motor vehicle crash or other occurrence involving death, or serious personal injury, no removal shall occur until the investigating member determines that adequate information has been obtained for preparation of a crash report (DMV-349).

With the concurrence of the Division Engineer or his representative, the investigating member may initiate steps to immediately clear the road of vehicles, cargo, or other obstructions and debris consistent with this MOU and N.C.G.S. 20-161(f). In order to accomplish this task, the investigating member may request the assistance of the Division Engineer or his representative and may utilize the services of immediately available rotation wrecker firms, the closest available rotation wrecker firm and/or available DOT resources. For major lane blocking or traffic disruption incidents, such as overturned tractor trailers, hazardous material spills, fatal investigations or multi-vehicle wrecks, contact should be made with the NCDOT State Traffic Operations Center (STOC) at 877-627-7862 (877-NCS-STOC). If concurrence between NCDOT and SHP is given, the STOC can assist with the coordination of detours, traveler information, traffic conditions and contacting appropriate towing and recovery resources.

III. Procedure / Requirements - NCDOT

A. General

By signing this MOU, SHP concurs that for minor incidents, such as abandoned or disabled vehicles and minor crashes that occur on the paved or main-traveled portion of any highway that NCDOT's Incident Management Assistance Patrol (IMAP), or any contractor delegated Quick Clearance authority by NCDOT, if available, may properly mark the location of vehicles, assist in traffic control and/or relocate vehicles to a non-hazardous location without additional concurrence for Quick Clearance from the SHP. In cases where abandoned or disabled vehicles are left in a non-hazardous position off the roadway, the vehicles may be tagged and removed after 24 hours by the SHP, IMAP, or any contractor delegated Quick Clearance authority by NCDOT or another law enforcement agency. IMAP or any contractor delegated Quick Clearance authority by NCDOT shall contact SHP communications with the vehicle's tag and VIN information so that proper investigation can be performed. In the event IMAP or any contractor delegated Quick Clearance authority by NCDOT, tags a vehicle and it is later towed based upon that time stamp, any litigation or complaint that arises due to elapsed time issues will be borne by NCDOT and/or their Attorney General's office.

NCDOT will make every effort to ensure that there are designated on-duty personnel with the authority and expertise to grant the necessary concurrence to put into effect the Quick Clearance procedures described herein.

NCDOT will make every effort to ensure that each State Highway Patrol Communications Center is kept apprised of all necessary recall numbers for on-duty personnel responsible for implementing Quick Clearance procedures. This information will also be readily available at the STOC 877-627-7862.

NCDOT will make every effort to cooperate with the SHP in responding to all major incidents and in determining whether and to what extent the Quick Clearance procedures authorized by N.C.G.S. 20-161(f) are warranted. For major incidents where Quick Clearance occurs or other issues arise, NCDOT will perform after incident reviews to discuss positive and/or negative effects of decisions made at the incident scene.

In any case where a determination is made that the use of NCDOT equipment is the most expedient and prudent manner in which to move vehicles, cargo, or other personal property, NCDOT will make every effort to relocate cargo or other personal property in the shortest possible time, using whatever equipment is necessary. All such materials will be relocated as short a distance as necessary to clear the travel lanes or otherwise avoid any traffic hazard.

In any case where NCDOT personnel and equipment are used to clear a highway pursuant to the provisions of this MOU, the Division Engineer or his representative shall prepare a list of the personnel, materials, traffic control devices, and equipment used and the work hours involved so that the party responsible or owner of the vehicle and/or cargo can be billed for the work pursuant to N.C.G.S. 20-161(g).

B. Hazardous / Flammable / Exploding Materials

No attempt shall be made by NCDOT personnel to move any hazardous, flammable, or exploding materials for any reason. If NCDOT is first on the scene and cargo content is not readily identifiable, the Division Engineer or his representative will contact the proper authorities to ascertain if special measures should be taken.

Only after the load has been identified and appropriate safety precautions and/or clean up procedures have been completed shall the Quick Clearance measures described herein be adhered to.

C. Delegation of Quick Clearance Authority by NCDOT

At times, NCDOT may enter into a contractual agreement with other entities and delegate to them Quick Clearance responsibilities and authority as allowed by N.C.G.S. 20-161(f). In these limited circumstances and upon completion of required training, NCDOT will recognize the entities as IMAP and will extend blanket concurrence for trained personnel to self-initiate Quick Clearance procedures for minor incidents, such as abandoned or disabled vehicles and minor crashes that occur on the paved or main travelled portion of the identified state highway system. Additionally, NCDOT will authorize trained personnel of said entities to properly mark the location of vehicles, assist in traffic control and/or relocate vehicles to a non-hazardous location without additional concurrence for Quick Clearance from the SHP or NCDOT.

I-77 HOT Lanes Project- By agreement dated June 26, 2014, NCDOT contracted with I-77 Mobility Partners, LLC (I-77 MP) to finance, develop, design, construct, operate and maintain the I-77 HOT Lanes Project. As such, NCDOT considers I-77 MP IMAP for the purposes of initiating and/or implementing Quick Clearance as allowed by N.C.G.S. 20-161(f). NCDOT has extended blanket concurrence for I-77 MP technicians to self-initiate Quick Clearance procedures for minor incidents, such as abandoned or disabled vehicles and minor crashes that occur on the paved or main travelled portion of I-77 between mile marker 10 and 37 on both the general purpose and high occupancy toll lanes. NCDOT has also authorized I-77 MP to properly mark the location of vehicles, assist in traffic control and/or relocate vehicles to a non-hazardous location without additional concurrence for Quick Clearance from the SHP or NCDOT.

IV. Public Safety Priority

As indicated above, this MOU reflects the understanding and agreement of NCDOT and SHP that public safety must be afforded the highest priority in reopening traffic lanes blocked by motor vehicle crashes or other incidents. Further, utilization of the Quick Clearance procedures authorized by N.C.G.S.20-161(f) to expeditiously remove vehicles and cargo blocking highways, and thereby creating a safety hazard, may require the utilization of available resources and should immediately be put into effect.

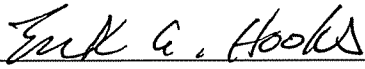
V. Modifications

Appropriate NCDOT and SHP personnel shall review this MOU on an as needed basis to determine if any modifications are necessary.

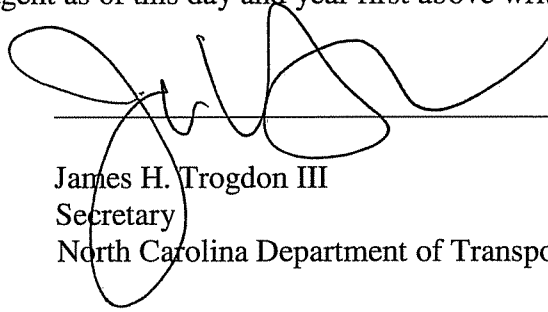
This MOU supersedes any previous agreements between NCDOT and SHP related to Removal of Vehicles from Roadway.

(SIGNATURE PAGE TO FOLLOW)

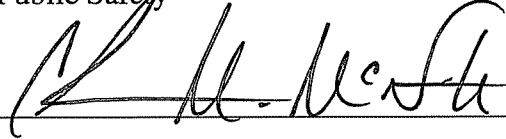
In Witness Whereof, each party hereto has caused this agreement to be executed in its name and on its behalf by its duly authorized officer or agent as of this day and year first above written.



Erik A. Hooks
Secretary
North Carolina Department of
Public Safety



James H. Trogon III
Secretary
North Carolina Department of Transportation



Glenn M. McNeill, Jr.
Colonel
North Carolina State Highway Patrol



Tim Little
Chief Engineer
North Carolina Department of Transportation