



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: January 20, 2020

TIME: 1:58 PM

WSR 20-03-145

Agency: Washington State Patrol

Original Notice

Supplemental Notice to WSR \_\_\_\_\_

Continuance of WSR \_\_\_\_\_

Preproposal Statement of Inquiry was filed as WSR 18-19-074 ; or

Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW \_\_\_\_\_.

Title of rule and other identifying information: (describe subject) Registered Tow Trucks – Business office hours and records and Fees

### Hearing location(s):

Date: Time: Location: (be specific) Comment:

February 28, 2020	9:00am	106 11 <sup>th</sup> Avenue SW Olympia, WA 98504 Room 4022	
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Date of intended adoption: March 3, 2020 (Note: This is NOT the effective date)

### Submit written comments to:

Name: Kimberly Mathis, Rules Coordinator  
Address: 106 11<sup>th</sup> Avenue SW; Olympia, WA 98504  
Email: wsprules@wsp.wa.gov  
Fax:  
Other:  
By (date) February 27, 2020

### Assistance for persons with disabilities:

Contact Kimberly Mathis  
Phone: 360-596-4017  
Fax:  
TTY:  
Email: wsprules@wsp.wa.gov  
Other:  
By (date) February 27, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: With the passage of SHB 1218 during the 2017 legislative session, the bill changed the starting time for calculation of storage fees and the time is charged in 15 minute increments and may not exceed an hour.

**Reasons supporting proposal:** The proposed changes will ensure the rules reference and will comply with current laws in the state of Washington

**Statutory authority for adoption:** RCW 46.37.005, 46.55.050, 46.55.115

**Statute being implemented:** RCW 46.37.005, 46.55.050, 46.55.115

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Name of proponent:** (person or organization) Washington State Patrol

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Kimberly Mathis	Olympia, WA	360-596-4017
Implementation:	Washington State Patrol	Olympia, WA	360-596-4017
Enforcement:	Washington State Patrol	Olympia, WA	360-596-4017

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

No: Please explain: This rule is exempt pursuant to RCW 34.05.328(5)(b)(v)

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_.

Explanation of exemptions, if necessary:

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. \_\_\_\_\_
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

**Date:** 1/20/2020

**Name:** John R. Batiste

**Title:** Chief

**Signature:**

**WAC 204-91A-140 Fees.** (1) Towing fees must be based on a flat, hourly rate only and will apply without regard to the hour of day, day of the week or whether the service was performed on a Saturday, Sunday, or state recognized holiday. The hourly rate for each class of truck must be charged for services performed for initial tows and secondary tows performed during business hours. Charges for secondary tows performed during nonbusiness hours, on weekends or state recognized holidays, if different from the hourly rate, must be negotiated and agreed upon with the vehicle owner/agent before the tow is made.

The tow inspector will investigate allegations of overcharging. Intentional overcharging or a pattern of overcharging will be cause for suspension. The tow operator's failure to reimburse the aggrieved customer(s) may be cause for suspension, after a tow inspector has determined that overcharging occurred and may result in the suspension or revocation of the tow operators letter of appointment. The suspension will remain in effect until the tow operator has presented to the patrol sufficient proof that the aggrieved customer(s) has been fully reimbursed.

(2) The chief or designee will, prior to October 15th of each year, establish maximum hourly towing rates for each class of tow truck and maximum daily storage rates that tow operators may charge for services performed as a result of state patrol calls. The maximum rates will be determined after consultation with members of the towing industry, review of current private towing rates, and such other economic factors as the chief deems appropriate.

When signed by the chief or designee and the tow operator, a contractual agreement to charge no more than the maximum rates will become part of the operator's letter of appointment. The tow operator may, however, adopt a rate schedule charging less than the maximum rates established by the chief.

The hourly rate must:

(a) Apply when a call for a tow is made by the state patrol, except as outlined under subsection (6) of this section. This includes, but may not be limited to, collisions and impound requests.

(b) Include all ancillary activities including, but not limited to, removal of glass, debris, and vehicle fluids less than one gallon from the roadway and areas referred to as the "scene or incident location," necessary winching, dolly service, drive line removal, installation of chains on the tow truck, installation of portable lights, vehicle hookup for towing or transporting, tire replacement and stand-by time. Before leaving any collision or incident location, the tow company must advise the department of transportation, the patrol, local law enforcement road department of all fluid spills greater than one gallon remaining.

(c) Include the labor of one person per truck. When responding with a class "C" or an S-1 rotator truck to a major collision or incident location; a second person is allowed at the hourly labor rate per contract for an extra registered tow truck operator employee. Any charges for additional labor or ancillary vehicles, or both, or for removing debris, cargo, or other items at the collision or incident location must have prior authorization from the legal or registered owner/agent, or a member of the patrol at the scene, and must have

documentation in the vehicle transaction file for inspection purposes. Documentation must include:

(i) The first and last name of the person who requested the additional labor, ancillary vehicle, or removal of debris, cargo, or other items at the collision or incident location.

(ii) How and when the approval was obtained.

(d) Be computed from the actual time the truck departs in response to a call until the truck returns to its tow zone, responds to another call, returns to the storage area, or returns to the place of business of the registered tow truck operator. Billing invoices must have the time of day and date a vehicle arrives at the storage area or place of business of the registered tow truck operator.

(i) The hourly rate must be applied to the resulting net time and, after the first hour, must be rounded to the nearest fifteen minutes. ((The operator may charge the hourly rate for the first hour or any fifteen minute portion thereof.))

(ii) After returning to the storage area, the tow operator may charge for the total amount of time in fifteen minute increments not to exceed a total of sixty minutes.

(e) Be evenly divided between customer vehicles transported when class "E" trucks are used for multiple towing/recovery services (one on bed, one in tow) from the same service call or incident location.

(3) The basic storage fee:

(a) Must be calculated using bumper to bumper measurements for vehicles, and using tongue to bumper measurements for trailers; and

(b) Must be calculated on a twenty-four-hour basis and must be charged to the nearest half day from the time the vehicle arrives at the secure storage area. Vehicles stored over twelve hours on any given day within the twenty-four-hour period may be charged a full day's storage. Vehicles stored less than twelve hours on any given day, may only be charged for twelve hours of storage; and

(c) Must be the same for all three and four-wheel vehicles twenty feet or less in length; and

(d) For vehicles or combinations exceeding twenty feet, the storage fee must be computed by multiplying each twenty feet of vehicle length, or any portion thereof, by the basic storage fee; and

(e) For motorcycles, operators may charge the basic storage fee for vehicles.

(4) To charge fees for ancillary equipment, additional labor, or removal of cargo and commodities that must be offloaded after placed in the storage area or registered tow truck operator's place of business for the purpose of disposal or storage, the operator must provide written notification of such fees to the legal owner, registered owner or owner's agent of the vehicle and must make a good faith attempt to gain prior authorization for estimated charges.

(a) Notification must include an itemized list of the estimated charges for any ancillary equipment, additional labor, or removal of cargo and commodities that must be offloaded after placed in the storage area or registered tow truck operator's place of business for the purpose of disposal or storage.

(b) Documentation must include:

(i) A copy of the written notification made to the legal owner, registered owner, or owner's agent.

(ii) Full name of the individual(s) contacted or attempted to be contacted for authorization for completion of additional labor, ancillary equipment, or removal of cargo or commodities for the purpose of disposal or storage.

(iii) The company representing the legal owner, registered owner, or owner's agent if applicable.

(iv) Date and time of each contact.

(v) Phone number and any other contact information that was available at the time of the contact.

(c) The patrol will provide the insurance information by request of the operator, if available.

(5) After hours release fee may be assessed if the tow operator or employee must be at the business location specifically for the purpose of releasing the vehicle and/or property on any weekday after 5 p.m. and before 8 a.m.; Saturday or Sunday; or on any state recognized holiday. After hour fees must:

(a) Be based on a flat, hourly rate;

(b) Be applied to the resulting net time and, after the first hour, must be rounded to the nearest fifteen minutes; and

(c) Be no more than one-half of the class "A" rate.

(6) (a) Any tow operator who charges the general public (i.e., private citizens) rates lower than those identified in the contractual agreement for the following services must charge the same lower rate for similar services performed as a result of patrol initiated calls:

(i) Roadside mechanical service including, but are not limited to, fuel transfer, tire and belt changes;

(ii) Disabled vehicle tow/transportation;

(iii) Storage;

(iv) After hours release fees.

(b) The price requirement in subsection (a)(i) through (iii) of this section does not apply to unoccupied vehicle situations in which the owner/operator has had no prior contact with either the state patrol or the tow operator.

(7) Upon redemption of a vehicle, an additional charge may not be assessed for moving or relocating any stored vehicle from inside a tow operator's storage yard to the front of the business establishment.

(8) Tolls and ferry fares paid by the tow operator or employee as a result of charges attributed to services provided during travel to and from a service call while using the shortest reasonable route, may be added as a separate line item to the tow bill. Added charges must be evidenced by a receipt or highlighted (i.e., "Good to Go" or "Wave to Go") on the transaction document and kept in the vehicle transaction file for inspection purposes.

**WAC 204-91A-120 Business office hours and records.** (1) Business hours will be in accordance with RCW 46.55.060(6). Businesses that close for an hour between 11:00 a.m. and 1:00 p.m. must:

(a) Designate the hour that they intend to use on a daily basis and notify the patrol of the designated hour annually at the time of inspection. The designated hour may be:

(i) Changed by providing notice to the patrol at least seventy-two hours in advance. Electronic notification to the inspector will be considered an acceptable form of providing notice.

(ii) Adjusted the same day if a customer transaction occurs during the designated hour or an emergent business need arises provided that:

(A) The adjusted time is taken between 11:00 a.m. and 1:00 p.m.;

(B) The total amount of time the business office is closed does not exceed one hour; and

(C) Notice is provided:

(I) At the door regarding the return time with a telephone number at which personnel can be reached as required per RCW 46.55.060; and

(II) To the inspector electronically within twenty-four hours if adjusted for an emergent business need.

(b) Notify the public of the designated hour that they intend to be closed, which must be posted on the door with a telephone number at which personnel can be reached as required by RCW 46.55.060.

(c) Remain accessible to law enforcement or department of licensing if they are in the process of performing an inspection or investigation. Adjustments to the designated hour may be made if an investigation or inspection occurs during the designated hour provided that:

(i) The adjusted time is taken between 11:00 a.m. and 1:00 p.m.;

(ii) Notice is provided at the door regarding the return time with a telephone number at which personnel can be reached as required per RCW 46.55.060; and

(iii) The total amount of time the business office is closed does not exceed one hour.

(2) The owner/operator must have personnel at the place of business during business hours to answer phone calls and to release vehicles and personal property. Persons from adjoining or neighboring businesses may not be used to meet this requirement. Phones may not be forwarded to an answering service during normal business hours.

(3) When (~~an~~) a tow operator is not open for business and does not have personnel present at the place of business, the tow operator must post a clearly visible telephone number at the business location to advise the public how to make contact for the release of vehicles or personal property.

(4) The owner/operator must maintain personnel who must be:

(a) Available twenty-four hours a day to release impounded vehicles within a sixty-minute period of time. If personnel are contacted during the hour the business has designated to be closed under subsection (1) of this section, personnel must:

(i) Log the time of the call;

(ii) Return to the business within no more than one-half hour;

(iii) Calculate the storage fees based on the time of the call.

If the vehicle's legal or registered owner or the owner's authorized representative does not redeem the vehicle at the time the tow opera-

tor returns to the business, the vehicle storage fees will accrue as if charges had not ceased at the time of the call.

(b) Identifiable as representing the company.

(5) All billing invoices must be numbered and must contain the following information:

(a) Business name, business address, and phone number.

(b) Date of service and tow truck (~~operator's~~) driver's first initial and last name.

~~((b))~~ (c) Time of departure in response to the call.

~~((e))~~ (d) Time tow truck arrived at the scene.

(e) Time tow truck departed the scene.

(f) Time tow truck arrived at the yard.

(g) Time (~~service~~) the vehicle is unloaded and the necessary and required paperwork is completed.

~~((d))~~ (h) Class of tow truck used.

~~((e))~~ (i) If the (~~towing call is for~~) tow was in response to a Washington state patrol request (~~, another police agency, a private impound, or the result of a private citizen request.~~

~~(f) All fees for service must be itemized).~~

~~((g))~~ (j) The date and time the vehicle was released.

~~((6))~~ (k) The number of storage spaces used, and if more than one storage space is used, the size of vehicle as measured in feet from front bumper to rear bumper.

(6) All fees for service must be itemized on the invoice, including each item of additional labor, ancillary equipment, or removal of debris, cargo, or other items.

(7) Yard cards containing the information in subsection (5) of this section may be used for internal control of vehicles by the tow operator until the vehicle is released, sold, or otherwise disposed of. Yard cards are supplemental to, and do not replace the invoice required above.

~~((7))~~ (8) A copy of the invoice must be filed by invoice number at the business location and a copy of any voided invoice must be retained in this same file. Another copy of the invoice must be included with the transaction file items identified in RCW 46.55.150.