

**WSR 13-07-049**  
**EXPEDITED RULES**  
**WASHINGTON STATE PATROL**

[Filed March 18, 2013, 9:56 a.m.]

Title of Rule and Other Identifying Information: WAC 204-91A-180 Additional vehicle towing/operator qualifications, restrictions, and requirements.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Melissa Van Gorkom, Washington State Patrol, P.O. Box 42600, Olympia, WA 98504-2600, AND RECEIVED BY May 20, 2013.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rules change would replace the requirement for a tow operator's signature with a requirement for the name of the registered tow truck operator to be placed on the impound form by the officer after verification.

Reasons Supporting Proposal: This proposed change allows for the impound form to be administered electronically by law enforcement officers.

Statutory Authority for Adoption: RCW 46.55.050, 46.55.115, and 46.55.075.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting: Lieutenant Edward Swainson, P.O. Box 42600, Olympia, WA 98504, (360) 596-4124; Implementation and Enforcement: Washington State Patrol, P.O. Box 42600, Olympia, WA 98504, (360) 596-4124.

March 12, 2013  
 John R. Batiste  
 Chief

AMENDATORY SECTION (Amending WSR 09-09-118, filed 4/21/09, effective 5/22/09)

**WAC 204-91A-180 Additional vehicle towing/operator qualifications, restrictions, and requirements.** In addition to the requirements contained in WAC 204-91A-170, tow truck operators appointed pursuant to this chapter must conform to all laws and administrative rules pertaining to the tow industry and must observe the following practices and procedures:

(1) When called by the patrol during normal business hours, the tow truck operator must dispatch a tow truck, from within the assigned zone within five minutes after receiving the call. Tow trucks must be registered to and belong to the particular tow business that is called and assigned only to that tow zone. If an officer at the scene deems it necessary, the

officer may authorize additional assistance from a registered tow truck operator outside of the tow zone.

(2) When called by the patrol after normal business hours, the tow truck operator must dispatch a tow truck from within the assigned zone within fifteen minutes after receiving the call.

(3) The tow truck that is dispatched must arrive at the stated location within a reasonable time considering distance, traffic, and weather conditions.

(4) If for any reason a tow operator is unable to dispatch a tow truck within the stated time or if the dispatched truck will be delayed for any reason, the operator must advise the patrol stating the reason and estimated time of arrival. In the event the tow truck fails to arrive at the scene within a reasonable time, the patrol will contact another tow operator to respond to the scene and will cancel the original tow.

(5) A tow operator on rotation who is unable to dispatch or arrive within the times stated in subsections (1), (2), (3), and (4) of this section will forfeit the operator's turn and be placed at the bottom of the rotation list as if the operator had responded.

(6) Consistent refusal or failure of the appointee to respond to calls from the patrol for towing services or to provide the requested services may result in the suspension or revocation of the tow operator's letter of appointment.

(7) The tow operator must advise the appropriate patrol office when the tow company is temporarily unavailable to respond to rotational calls with a class "A," "B," or "C" tow truck. Unavailability may occur due to conditions including, but not limited to, other tow truck commitments, tow truck disabled and/or under repair, unforeseen driver shortage due to illness. The period of unavailability may last less than an hour or much longer. The tow operator will give the reason for unavailability and approximately when the company will be available to respond to calls.

The tow company will be removed from the rotational list and will not be called until the operator advises the patrol that the company is once again able to respond to calls with an "A," "B," or "C" class truck. In all such cases, the tow company will resume its normal position on the rotational list without regard to any missed calls or its position prior to being unavailable.

(8) The tow operator must advise the patrol whenever a private call is received for a tow with circumstances that indicate that the tow is for a vehicle that has been involved in a collision, incident, or equipment breakdown on the public roadway. The tow operator also must advise the patrol of all private calls to motor vehicle collisions on private property resulting in bodily injury or death.

(9) The tow operator must notify the patrol before moving any vehicle involved in a collision on a public highway under the jurisdiction of the patrol as defined in the motor vehicle code, Title 46 RCW, or where it appears that the driver of the vehicle to be moved is under the influence of intoxicants or drugs, or is otherwise incapacitated.

(10) Other than a service patrol established and funded by the department of transportation, a tow operator must not solicit tow or roadside services by patrolling the public roadways searching for disabled vehicles or vehicles involved in a traffic collision.

(11) When the patrol is in charge of a collision scene or other such incident, a tow operator must not respond to such scene unless his services have been specifically requested by the patrol, the driver/owner, or his agent.

(12) The tow operator must be available, or will ensure that specific employees are available, twenty-four hours a day for the purpose of receiving calls or arranging for the release of vehicles. Business hours will be posted conspicuously at the operator's place of business so they can be seen during business hours and nonbusiness hours. A copy will also be sent to the section and patrol district commander of the district in which the tow operator does business. Changes of business hours will be sent to the department, the section, and the patrol district commander ten days before their effective date.

(13) The operator must post a current copy of tow and storage rates, on a form approved by the department and the patrol, in the following locations:

(a) At the entrance to the place of business, in a conspicuous location, plainly visible and capable of being read by the public, whether the business is open or closed. If, in order to meet this requirement, the rate sheets must be placed in a location, exposed to the elements, they must be protected so as to remain legible.

(b) Inside the business location, where business is commonly transacted. The rate sheets must be posted in such manner as to be clearly and plainly visible and read at all times by customers of the business.

(c) A copy of the current rates will be sent to the department, the section, and the patrol district commander of the district in which the tow operator has applied for a letter of appointment. Notice of any change(s) in service rates will be forwarded to the department, the section, and the district commander of the area ten days before the effective date of the changes. Charges made for towing services arising from calls initiated by the patrol must be consistent with current posted towing rates and must be based only upon services listed on the prescribed form.

(d) In the event that an operator has only a class "B" truck and utilizes it for class "A" and "B" type tows, the operator must file a rate sheet that specifies the rates charged for the different types of tows.

(e) Whenever any operator utilizes a larger truck than the towed vehicle warrants, the operator must charge fees based on the size of the towed vehicle not the size of the truck used.

(14) Charges made for towing services arising from calls initiated by the patrol must not exceed the maximum rates established by the chief.

(15) Unless other arrangements are made with commissioned patrol personnel at the scene, all impounded vehicles must be taken to the tow operators nearest approved storage location.

(16) The tow operator will maintain, for three years, records on towed and released vehicles which were towed at the request of the patrol. Such records will be available for inspection by the patrol during normal business hours at the operator's place of business. Records will include, but not be limited to:

(a) An itemized receipt of all charges for the services provided.

(b) A tow impound record inventory or copy thereof made out by the trooper at the scene of the tow and signed by the operator.

(c) All other records required by the department.

(17) The name of the registered tow truck operator will be placed on the tow impound inventory record made out by the patrol officer at the scene upon verification; except that the signature may be provided on existing forms with form number 3000-110-076 (R 7/11) until current stock is depleted.

(18) Tow operators will obtain and maintain current registration as a licensed tow truck operator pursuant to RCW 46.55.020.

(19) Tow operators must perform towing tasks competently. The standard of competence will be that quality of work which is accepted as efficient and effective within the towing industry. The tow operator must ensure tow truck drivers responding to calls initiated by the patrol have completed a minimum of one four-hour tow truck driver training course every five years. The operator must keep a file documenting training.

(20) No tow operator, employee, or agent will misappropriate, wrongfully convert to his/her own use, or abuse property belonging to another and entrusted to his/her care or storage.

(21) Tow truck operators must use emergency lights to warn other motorists only when at the scene of collisions, disabled vehicles, and/or recoveries. Such lighting must not be used when traveling to or from the scene.

(22) Tow truck operators are required to clean collision/incident scenes of all vehicle glass, debris, and vehicle liquid spills of one gallon or less.

(23) Specific operating restrictions and/or requirements, by truck class, are as follows:

(a) The standard air brake release tools (caging stud assemblies) required to be carried in the class "B," "B-2," and "C" trucks must be used, whenever necessary, to preserve potential evidence involving brake equipment or adjustment settings. When an operator is attempting to move a vehicle equipped with locked spring parking brakes that cannot be released by external air supply, the caging assemblies must be used to release the brake tension. Under no circumstances will the towed vehicle's brake assemblies or adjustments be moved or disturbed in any way that will prevent later determination of the precollision or incident settings.

(b) Class "B" or "B-2" trucks in excess of twenty-three thousand pounds gross vehicle weight rating need not carry dollies when towing or recovering heavy vehicles.

(24) Whenever a "special event or overflow" storage lot is approved by the department, the patrol and appropriate city/county jurisdictions, the following must apply:

(a) The operator must maintain personnel at the lot twenty-four hours per day for security and vehicle and/or personal property release. If necessary, reimbursement for such labor must be part of the contract for the "special event" if appropriate or by amended storage rates with a waiver of the ten-day rate change notice requirement approved by the department and the patrol.

(b) At the conclusion of a "special event or overflow" situation, all vehicles not reclaimed by the owner must be towed

to the operator's regular storage facility and processed in the normal fashion. No additional fee must be charged for towing the vehicle from the overflow lot to the regular storage facility.

(25) All work performed by the operator and/or employee must be in the most professional and expeditious manner. Tow operators and employees must refrain from any unprofessional actions while towing for or conducting towing business at the request of the patrol. The actions include, but are not limited to, any of the following:

(a) Lack of service, selective service, or refusal to provide service which the operator should be capable of performing;

(b) Exhibiting any signs of either alcohol, drug use, or both;

(c) Displaying any objects, logos, slogans, or graphic material within the view of the public that contains any form of pornography, profanity, or prejudice toward any person or group of persons.

(26) Tow operators must, when required by the patrol or the department, cause to be displayed on each approved truck, decals indicating truck class, patrol district, and/or assigned tow zone.

(27) When responding to a patrol call, tow truck operators must wear clothing identifying the company and driver's name.

(28) Tow truck operators performing recovery, impounding, or towing must wear work vests of highly visible materials, or equivalent distinguishing apparel when outside of the towing vehicle as outlined in WAC 296-155-200(5) and Code of Federal Regulations, Title 23 Part 634.3.

(29) Tow truck operators must not display any sign, shield, marking, accessory, or insignia on uniforms or vehicles indicating the equipment or vehicle marking are similar to or belong to any public law enforcement agency. Tow truck operators must not engage in any advertisement indicating an official connection with the patrol or other law enforcement agency.

### WSR 13-07-079

#### EXPEDITED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed March 20, 2013, 10:31 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-232 WAC, Use restricted herbicides in certain counties.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Teresa Norman, Wash-

ington State Department of Agriculture (WSDA), P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY May 21, 2013.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Correcting addresses and other minor housekeeping changes.

Reasons Supporting Proposal: Clarification.

Statutory Authority for Adoption: RCW 17.21.030 and chapter 34.05 RCW.

Statute Being Implemented: RCW 17.21.030.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: WSDA, governmental.

Name of Agency Personnel Responsible for Drafting: Robin Schoen-Nessa, Natural Resources Building, 2nd Floor, 1111 Washington Street S.E., Olympia, WA, (360) 902-2038; Implementation and Enforcement: Cliff Weed, Natural Resources Building, 2nd Floor, 1111 Washington Street S.E., Olympia, WA, (360) 902-2036.

March 15, 2013

Ted Maxwell

Acting Assistant Director

AMENDATORY SECTION (Amending WSR 13-01-034, filed 12/11/12, effective 1/1/14)

**WAC 16-232-410 What pesticides are restricted in the area under order?** All formulations containing the active ingredient O,O-diethyl O-(3,5,6-trichloro-2-pyridinyl) phosphorothioate, commonly known as chlorpyrifos (CAS Number 2921-88-2) or the active ingredient O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate, commonly known as diazinon (CAS Number 333-41-5) are use restricted pesticides when applied to cranberries in the area under order.

AMENDATORY SECTION (Amending WSR 13-01-034, filed 12/11/12, effective 1/1/14)

**WAC 16-232-420 What standards are adopted by WSDA?** (1) The department adopts the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Practices Standards "Drainage Water Management" CODE 554 (~~Sept.~~ Nov. 2011); "SubSurface Drain" CODE 606 (Sept. 2011); "Surface Drain, Main or Lateral" CODE 608 (Nov. 2010); and "Underground Outlet" CODE 620 (Nov. 2010) as requirements for and restrictions on the use of pesticides containing chlorpyrifos or diazinon when applied to cranberries in the area under order.

(2) Copies of the adopted USDA NRCS Practice Standards can be requested by mail from: U.S. Department of Agriculture, 1400 Independence Ave., S.W., Washington, D.C. 20250 or from your local NRCS Office or can be found on the WSDA web site at: (~~http://www.agr.wa.gov/pestfert/~~) <http://agr.wa.gov/pestfert/>.

AMENDATORY SECTION (Amending WSR 13-01-034, filed 12/11/12, effective 1/1/14)

**WAC 16-232-430 What are the restrictions on the use of pesticides containing chlorpyrifos or diazinon for ditches?** (1) Chlorpyrifos or diazinon shall not be applied to cranberries unless all ditches immediately adjacent to the application and all other ditches that will be contacted by the application are adequately protected to prevent entry of chlorpyrifos or diazinon at the time of application.

(2) For the purpose of subsection (1) of this section, "adequately protected" means:

(a) Ditches are cribbed and covered according to USDA NRCS Practice Standards "Drainage Water Management" CODE 554 (~~(Sept.)~~ Nov. 2011); "SubSurface Drain" CODE 606 (Sept. 2011); "Surface Drain, Main or Lateral" CODE 608 (Nov. 2010); and "Underground Outlet" CODE 620 (Nov. 2010), or one of the functional equivalents below.

(i) A functional equivalent for ditch side walls is the installation of side walls with rigid material capable of maintaining ditch integrity for a period of no less than ten years.

(ii) A functional equivalent for ditch coverings is the installation of ditch coverings using rigid material capable of preventing entry of chlorpyrifos or diazinon either through chemigation activities or run-off from irrigation activities into ditches as described in subsection (1) of this section.

(b) Drainage culverts are installed and constructed according to USDA NRCS Practice Standard "Underground Outlet" CODE 620 (Nov. 2010).

(3) All ditches and culverts shall be maintained and kept in good repair as needed in order to achieve the requirements of subsection (1) of this section.

(4) Upon request, the department shall be provided with all available information related to the design, construction, and materials used to protect the ditch as described in subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 13-01-034, filed 12/11/12, effective 1/1/14)

**WAC 16-232-450 Can a variance to the requirements of this order be obtained in an emergency?** (1) In the event of an emergency, as determined by the director, the department may issue permits for the use of chlorpyrifos or diazinon in the use restricted area in variation of any restrictions as defined in WAC 16-232-430 or 16-232-440. An emergency under this section may be declared if the director determines that the situation is:

(a) Urgent and unexpected; and

(b) The risk and amount of economic harm to the crop substantially outweighs the risk and amount of damage likely to occur to the environment if a variance permit is issued.

(2) Application for a permit may be made by e-mail to [compliance@agr.wa.gov](mailto:compliance@agr.wa.gov) or by mail, fax, or in person to the Washington State Department of Agriculture, Pesticide Management Division, Natural Resources Building (NRB), Second Floor, 1111 Washington St. S.E., P.O. Box ~~(42589)~~ 42560, Olympia, WA 98504-2560, FAX: 360-902-2093. Permits will not be granted by telephone.

(3) The department may make on-site monitoring of the application a condition of any permit. A representative of the

department may condition, deny, or revoke a permit at any time, if the representative determines that the situation at the application site creates an unreasonable risk. In determining whether the situation at the application site creates an unreasonable risk, the representative may consider all relevant factors such as temperature, tides, precipitation, application type, pesticide formulation and application equipment, ditch cover condition, endangered species restrictions, air inversions, time of day, burning restrictions, wind direction, wind velocity, topography, and type and condition of application equipment.

