

**R909. Transportation, Motor Carrier.**

**R909-19. Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification.**

**R909-19-1. Authority.**

This rule is enacted under the authority of Sections 72-9-601, 72-9-602, 72-9-603, 72-9-604, 53-1-106, 41-6a-1405, Utah Code.

**R909-19-2. Applicability.**

All tow truck motor carriers and employees must comply and observe all rules, including R909-1, regulations, traffic laws and guidelines as prescribed by State Law, including Sections 41-6a-401.9, 41-6a-1404, 41-6a-1405, 41-6a-1406, 72-9-301, 72-9-303, 72-9-601, 72-9-602, 72-9-603, 72-9-604, 72-9-701, 72-9-702, and 72-9-703.

**R909-19-3. Definitions.**

(1) "Consent tow" means any tow truck service that is done at the vehicle, vessel, or outboard motor owner's, or its legal operator, knowledge or approval.

(2) "Department" means the Utah Department of Transportation.

(3) "Division" means the Motor Carrier Division.

(4) "Emergency moves" means a tow operation initiated by law enforcement to move a wrecked or disabled motor vehicle.

(5) "Gross combination weight rating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination, articulated motor vehicle. In the absence of a value specified by the manufacturer, GVCR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

(6) "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the loaded weight of a single motor vehicle.

(7) "Life-essential personal property" includes those items essential to sustain life or health including: prescription medication, medical equipment, essential clothing, e.g. shoes, coat, food and water, child safety seats, and government issued photo-identification.

(8) "Non-consent police generated tow" means tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, as defined in Section 72-1-102.

(9) "Non-consent non-police generated tow" means towing services performed without the prior consent or knowledge of the owner of the vehicle or the person authorized by the owner to operate the vehicle from private property. The tow truck service must be from private property, at the request of the property landowner or agent for the landowner.

(10) "Normal office hours" means hours of operation where the office or yard shall be staffed and open for public business during normal business hours Monday thru Friday, except for designated state and federal holidays.

(11) "Recovery operation" means a towing service that may require charges in addition to the normal one-truck one-operator towing service requirements. The additional charges may include charges for manpower, extra equipment, and supplies necessary for the recovery operation.

(12) "State impound yard" means a yard for the storage of a vehicle, vessel, or outboard motor that meets the requirements of rules made by the commission pursuant to Subsection 41-1a-1101(5).

(13) "Tow truck" means a commercial vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, repossessed or impounded vehicles from highway or other place by means of a crane, hoist, tow bar, tow line, dolly tilt bed, or other similar means of vehicle transfer without its own power or control.

(14) "Tow truck certification program" means a program to authorize and approve tow truck motor carriers, operators, and vehicles is the process by which the Department, acting under Section 72-9-602, shall verify compliance with the State and Federal Motor Carriers Safety Regulations.

(15) "Tow truck motor carrier" means a motor carrier that is engaged in or transacting business for tow truck services. It includes the company's agents, officers, and representatives as well as employees responsible for hiring, training, supervising, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of equipment or accessories.

(16) "Tow truck operator" means an individual that performs operations related to a tow truck service as an employee or as an independent contractor on behalf of a tow truck motor carrier.

(17) "Tow truck service" means the functions and any ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place by means of a tow truck.

(a) Tow truck service, with regards to authorized towing fees, is determined by the type and size of the towed vehicle, not the type and size of the tow truck performing the service.

(b) Towed vehicle-classifications will be used when determining authorized fees. Information regarding the GVWR to determine classification category of towed vehicle can be found on the identification plate on the vehicle driver side doorframe. Towed vehicle classifications are as follows:

(i) "Light duty" means any towed vehicle with a GVWR 10,000 pounds or less;

(ii) "Medium duty" means any towed vehicle with a GVWR between 10,001 to 26,000 pounds;

(iii) "Heavy duty" means any towed vehicle with a GVWR or GCWR 26,001 pounds and greater.

(18) "Tow truck motor carrier steering committee" means a committee established by the Motor Carrier Division and will include enforcement personnel, industry representatives and other persons as deemed necessary.

**R909-19-4. Duties - Enforcement - Compliance Audits, Inspections and Right of Entry.**

The Department shall administer and in cooperation with the Department of Public Safety, Utah Highway Patrol Division as specified under Section 53-8-105, shall administer, and enforce state and federal laws related to the operation of tow truck motor carriers within the state. In addition, a tow truck motor carrier shall submit its lands, property, buildings, equipment for inspection and examination and shall submit its accounts, books, records, or other documents for inspection and copying to verify compliance as authorized by Section 72-9-301.

**R909-19-5. Insurance.**

(1) Tow truck motor carriers performing emergency moves shall maintain liability insurance coverage of at least \$750,000 per occurrence. Tow truck motor carriers performing non-emergency moves shall maintain liability insurance coverage of at least \$1,000,000 per occurrence.

(2) All tow truck motor carriers performing consent or non-consent tows are required to obtain a MCS-90 endorsement for environmental restoration as required in 49 CFR Part 387 - Minimum Levels of Financial Responsibility for Motor Carriers.

(3) Evidence of required insurance shall be maintained at the principal place of business and made available to the Department and/or Investigator upon request and prior to issuance of the tow truck motor carrier certification.

**R909-19-6. Penalties and Fines.**

(1) Any tow truck motor carrier that fails or neglects to comply with State or Federal Motor Carrier Safety Regulations, other statutes, any part of this rule, any term or condition of the permit or any materials that it incorporates either by reference or attachment, or a Departmental order, is subject to:

- (a) a civil penalty as authorized by Section 72-9-701, and 72-9-703;
- (b) suspension or revocation of a carrier, operator, or tow truck certification, suspension or revocation will be based upon the severity of violations to this rule, Sections 41-6a-1406 and 72-9-603;
- (c) issuance of a cease-and-desist order as authorized by Section 72-9-303; and
- (d) the revocation or suspension of registration by the Utah State Tax Commission pursuant to Section 72-9-303.

**R909-19-7. Towing Notice Requirements.**

(1) All non-consent police generated, and non-consent non-police generated tows conducted by tow truck motor carriers must input required information in electronic form on the Division of Motor Vehicles Utah State Tax Commission's website, at "<https://secure.utah.gov/ivs/ivs>" as required by Utah Code Subsection 41-6a-1406(11).

(2) Tow truck motor carriers must notify the local enforcement agency having jurisdiction over the area from where the vehicle, vessel, or outboard motor was removed on all non-consent non-police generated tows immediately upon arrival at the impound or storage yard.

(a) For tows conducted on vehicles, vessels, and outboard motors and the owner information does not appear in the IVS or TLR (Title License Registration) systems, a tow truck motor carrier has met this requirement if they can provide proof that a letter has been sent to the Utah State Tax Commission Division of Motor Vehicle or the appropriate state where the vehicle, vessel, and outboard motor is registered, within two business days requesting the needed information to send the letter.

(3) The tow truck motor carrier or the tow truck operator must provide a copy of the Utah Consumer Bill of Rights Regarding Towing at first contact with the owner of a vehicle, vessel, or out board motor that was towed.

(a) The tow truck motor carrier must be able to verify that the consumer received their copy of the Utah Consumer Bill of Rights Regarding Towing.

(4) The Utah Consumer Bill of Rights Regarding Towing shall contain the language and information as published at, <https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/utah-bill-of-rights-regarding-towing/>.

(a) The consumer has a right to receive documentation from the tow truck motor carrier showing the date and time the storage began.

(b) A consumer has the right to file a complaint alleging:

- (i) Overcharges;
- (ii) inadequate certification for the operator, truck or company, and;
- (iii) violations of the Federal Motor Carrier Safety Regulations, Utah Code Annotated, or Utah Administrative Code.

(c) Complaints may be filed online with the Utah Department of Transportation at <https://app.udot.utah.gov/public/mcs/f?p=345:3:::3> or by contacting the Motor Carrier Division at (801) 965-4892.

**R909-19-8. Certification.**

There are three (3) certifications required by the Department.

(1) Tow Truck Operator Certification.

(a) Effective July 1, 2004 all tow truck operators will be tested and certified in accordance with Towing and Recovery Association of America Inc (TRAA) standards and carry evidence of certification for the appropriate level of vehicle they are operating. These standards of conduct and proficiency may be tested and certified through an accepted program approved by the Department.

(b) Information on qualified certification programs may be obtained at the UDOT Motor Carrier Division website at <https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/tow-truck-certification/> or by contacting the Motor Carrier Division at (801) 965-4892.

(c) Tow truck motor carriers shall ensure that all tow truck operators:

- (i) are properly trained and certified to operate tow truck equipment;
  - (ii) are licensed, as required under Utah Code Sections 53-3-101, through 53-3-909 Uniform Driver License Act;
  - (iii) are complying with the requirements under Utah Code Sections 41-6a-1406 and 72-9-603;
  - (iv) have cleared the criminal background check required in Subsections 72-9-602(2) and (3). In addition, a tow truck motor carrier must notify the department of a tow truck operator whom is not in compliance with 72-9-602(3) within two business days of obtaining knowledge from the Bureau of Criminal Identification.
  - (v) obtain and maintain a valid medical examiner's certificate under 49 C.F.R Sec 391.45.
- (2) Tow Truck Vehicle Certification.
- (a) All tow trucks shall receive and pass a tow truck certification inspection biannually.
  - (b) All tow trucks must be equipped with required safety equipment. Safety Equipment List can be found at <https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/tow-truck-certification/> or by calling 801-965-4892.
  - (c) Upon vehicle certification, a UDOT certification sticker will be issued and shall be affixed on the driver's side rear window.
  - (d) Documentation of UDOT tow truck vehicle certification shall be retained and available upon request by Department personnel.
- (3) Tow truck motor carrier Certification.
- (a) Tow truck motor carriers shall be certified biannually to ensure compliance as required by the Federal Motor Carrier Safety Regulations, Utah Code Annotated, Utah Administrative Code and local laws where applicable.

**R909-19-9. Certification Fees.**

The Department may charge tow truck motor carriers a fee biannually as authorized by Section 72-9-603 to cover costs associated with driver, vehicle, and carrier certifications.

**R909-19-10. Information Required on Towing Receipt.**

- (1) Charges for services provided must be clearly reflected on a company receipt and a copy shall be provided to the customer. The receipt must include the following information:
- (a) company name;
  - (b) address;
  - (c) phone number;
  - (d) transportation, administration, fuel surcharge, and storage fees charged;
  - (e) name of company driver;
  - (f) unit number;
  - (g) license plate of the towed vehicle;
  - (h) make, model, Vehicle Identification Number, and year of the towed vehicle;
  - (i) start and end time with total hours for services provided; and
  - (j) the date vehicle was retrieved from tow yard or other storage area.

**R909-19-11. Non-Consent Towing Fee.**

- (1) A tow truck motor carrier may charge up to but not exceed the approved tow rate, based upon the type of non-consent tow, as indicated in the Towing Fee Schedule published online at <https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/>.
- (a) An additional 15% of the fee for tow truck service may be charged if the towed vehicle is used in the transportation of materials found to be hazardous for the purposes of and in accordance with the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.
  - (b) If a tow truck apparatus is mechanically connected to a vehicle, the tow truck motor carrier shall be considered in possession of the vehicle.
  - (c) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle is attempting to retrieve said vehicle before the tow truck motor carrier is in possession of the vehicle, no fee(s) shall be charged to the vehicle owner.
  - (d) If the owner, authorized operator, or authorized agent of the owner of the vehicle is attempting to retrieve the vehicle after the tow truck motor carrier is in possession of the vehicle but before the vehicle is removed from the property or scene, the maximum fee shall not exceed 50% of the posted rate schedule.
  - (e) Charges for recovery operations, as defined by R909-19-3, shall be coordinated with the towed vehicle owner, or directed by law enforcement prior to initiating the additional charges relating to the recovery operation. Coordination with the towed vehicle owner should result in an agreement between the towed vehicle owner and tow truck motor carrier.
    - (i) If attempts to coordinate the recovery operation charges with the towed vehicle owner fail, law enforcement personnel may authorize the recovery operation.
    - (ii) At least two attempts must be made to contact the towed vehicle owner.
    - (iii) Record of owner coordination or law enforcement authorization shall be maintained by a tow truck motor carrier for each recovery operation. The record shall include contact name, entity, contact time and date, and agreement made.
    - (iv) Uncoordinated or unauthorized recovery operation fees may be subject to penalty and reimbursement of recovery operation fees.

**R909-19-12. Police Generated Towing Fee Calculation.**

- (1) Tows dispatched during business hours: Tow time shall be calculated from dispatch time to completion of tow service.
- (2) Tows dispatched after business hours: Tow time shall be calculated from dispatch time to completion of tow service and return to dispatch location. Time to return to dispatch location shall not exceed allowed rotation response time.
- (3) Time charged shall be to the nearest fifteen-minute increment.
- (4) Charges may not extend to include the towing notice requirement period pursuant to Utah Code Subsections 72-9-603(1)(a)(i) or 41-6a-1406(4)(a)(ii).

**R909-19-13. Non-consent Towing Storage Fee.**

- (1) Daily storage fees for Non-consent Police generated tow service may not exceed:
  - (a) Outside storage: light duty \$40, medium duty \$60, heavy duty \$60
  - (b) Inside Storage: light duty \$45, medium duty \$85, heavy duty \$85
  - (c) Outside hazardous materials: medium duty \$115, heavy duty \$115
  - (d) Inside hazardous materials: medium duty \$165, heavy duty \$165
- (2) Daily storage fees for Non-consent non-police generated tow service may not exceed:
  - (a) Outside storage: light duty \$40, medium duty \$60, heavy duty \$60
  - (b) Inside Storage: light duty \$45, medium duty \$85, heavy duty \$85
  - (c) Outside hazardous materials: medium duty \$115, heavy duty \$115
  - (d) Inside hazardous materials: medium duty \$165, heavy duty \$165.
- (3) A tow truck motor carrier may charge up to but not exceeding the amount for storage per day for the type of non-consent tow.
  - (a) A tow truck motor carrier may charge a higher fee for inside storage per day per unit only if requested by the owner(s), or a law enforcement agency or highway authority.
  - (b) Vehicles used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F may be charged a higher storage fee rate.
  - (c) For the purpose of calculating storage rates, if the first six hours of storage for a vehicle includes more than one day, the authorized storage fee is only the charge for one day.

**R909-19-14. Non-consent Fuel Surcharge Fee.**

- (1) A tow truck motor carrier may charge a fuel surcharge when the daily Rocky Mountain Average, as determined by the Department of Energy, for the price of fuel reaches \$3.25 per gallon, a tow truck motor carrier may charge a surcharge equal to 5% of the base tow rate. An additional 5% shall be allowed for each \$0.25 per gallon increase. Conversely, as the price of fuel drops, the fuel surcharge shall decrease by the same rate.
  - (a) To determine the Rocky Mountain daily average per gallon diesel cost, refer to the U.S. Energy Information Administration's website at <https://www.eia.gov/>.
  - (b) The fuel surcharge may be charged on non-consent police generated tow when the vehicle is being used in the function of a tow vehicle i.e. travel to and from the scene and during the operation of equipment for recovery operation. Non-consent non-police tows may charge a onetime fee.
  - (c) Surcharge fee shall be listed as a separate fee on the tow bill.

**R909-19-15. Non-consent Administrative Fee.**

A tow truck motor carrier may charge an administrative fee for reporting the removal of up to but not exceeding the amount indicated in the Towing Fee Schedule as published online at, <https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/> per vehicle notification for reporting non-consent tows to the Department of Motor Vehicles and for sending notifications to the owner and lien-holder (if applicable).

**R909-19-16. Tow Truck Service and Administrative Fee Adjustment.**

- (1) The Motor Carrier Division is required to establish the allowable maximum fee for a tow truck service and administrative fee for reporting the removal, as per Utah State Code 72-9-603.

The Towing Fees Schedule is published on the Division's website at <https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/>.
- (2) The allowable maximum fee for tow truck service and the maximum allowable administrative fee for reporting the removal shall be tied to the Consumer Price Index for all Urban Wage Earners and Clerical Workers (CPI-W) in the West Urban Region of the U.S. The CPI-W is calculated by the U.S. Department of Labor, Bureau of Labor and Statistics (BLS), which publishes CPI Detailed Report Tables every month on its web site at <https://www.bls.gov/cpi/tables/home.htm>.
- (3) The Motor Carrier Division shall adjust the allowable maximum fees once annually as follows:
  - (a) The base fee schedule for each calendar year after a year in which the motor Carrier Division determines the allowable maximum fees pursuant to R909-19-11(1) shall be adjusted effective January 1 of each such calendar year (the "Adjustment Date").
  - (b) The adjustment amount of the allowable maximum fees shall be equal to the change in the CPI-W for the twelve-month period prior to the October CPI-W figure reported by the BLS immediately preceding the Adjustment Date in question.

(c) If the twelve-month change in the CPI-W from October to October is negative, the allowable maximum fees shall remain unchanged until the next Adjustment Date.

(d) The Division of Motor Carriers shall round the allowable maximum fees to the nearest whole number.

**R909-19-17. Public Consent Towing and Storage Rates.**

Towing rates for public consent tows are the responsibility of the consumer and the tow truck motor carrier as contracted for services rendered and are not regulated by the Department.

**R909-19-18. Rates and Storage Posting Requirements.**

Pursuant to Section 72-9-603, a tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current non-consent fees and rates for towing and storage of a vehicle at all locations at which vehicles are retrieved, or payment is accepted.

**R909-19-19. Federal Motor Carrier Safety Requirements.**

All tow truck motor carriers that meet the definition of a commercial motor carrier shall comply with all State and Federal Motor Carrier Safety Regulations, in addition to any other legal requirements established in statute, rule, or permit.

**R909-19-20. Consumer Protection Information.**

Pursuant to Section 72-9-602, the Department shall make consumer protection information available to the public that may use a tow truck motor carrier. To obtain such information, including a list of tow truck motor carriers that are currently certified by the Department, the public can access this information online at <https://www.udot.utah.gov/connect/business/motor-carriers/tow-trucks/>, or by calling the Motor Carrier Division at (801) 965-4892.

**R909-19-21. Establishment of Tow Truck Steering Committee and Work Group.**

(1) The Administrator for the Motor Carrier Division will establish a Steering Committee to provide advisory information and input.

(2) The Motor Carrier Advisory Board, established by the Governor, will serve as the steering body for regulatory guidance and the Department's certification process.

**R909-19-22. Review of Rates, Fees and Certification Process.**

(1) During a regularly scheduled Motor Carrier Advisory Board meeting, the board may review rates, fees, tow truck motor carrier procedures, and the certification process. The board is not required to review each of these items every year.

(2)(a) Interested parties must notify the department of their desire to appear and be heard at a regularly scheduled Motor Carrier Advisory Board meeting. To ensure placement on the agenda, notify the Motor Carrier Division at 801-965-4892, by the first day of the month of the scheduled meeting.

(b) Interested parties must be present at the Motor Carrier Advisory Board meeting to submit evidence supporting or challenging proposed rate or fee adjustments, or issues related to procedures regarding the certification process.

**R909-19-23. Ability to Petition for Review.**

Any tow truck motor carrier who believes the Division has acted wrongfully in denying or suspending certification or in imposing a cease-and-desist order may petition the Department for review of that action pursuant to Utah Admin. Code R907-1, Administrative Procedures.

**R909-19-24. Record Retention.**

Tow truck motor carriers shall retain records relating to rates charged for services for a period of six months after the service has been provided. However, if the Division or the vehicle owner have notified the carrier that it disputes its ability to charge a particular fee, the carrier shall retain the record until six months after the dispute has concluded or a court rule or order requires a longer retention period.

**R909-19-25. Life Essential Property.**

Property which is deemed as life essential shall be given to the vehicle owner regardless of payment for rendered services.

**KEY: safety regulations, tow trucks, towing, certifications**

**Date of Enactment or Last Substantive Amendment: November 12, 2020**

**Notice of Continuation: June 2, 2016**

**Authorizing, and Implemented or Interpreted Law: 41-6a-1404; 41-6a-1405; 41-6a-1406; 53-1-106; 53-8-105; 72-9-601; 72-9-602; 72-9-603; 72-9-604; 72-9-301; 72-9-303; 72-9-701; 72-9-702; 72-9-703**