

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #3

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SECRETARY OF STATE  
STATE OF WEST VIRGINIA

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Department of Administration, Purchasing Division TITLE NUMBER: 148

CITE AUTHORITY: 5A-3-48

AMENDMENT TO AN EXISTING RULE: YES  NO

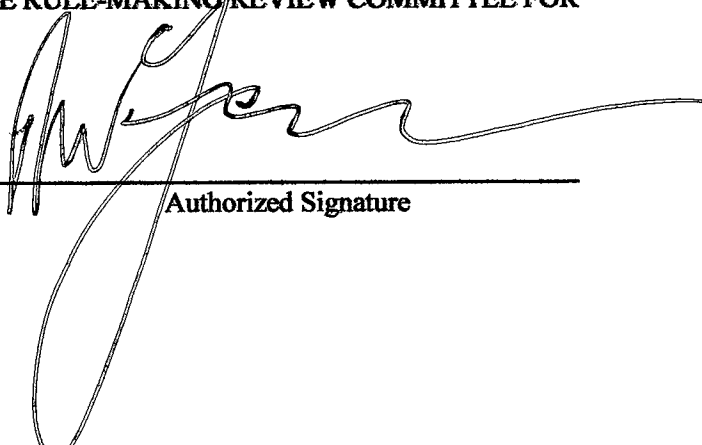
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: State Owned Vehicles

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

  
\_\_\_\_\_  
Authorized Signature

**Agency:** Department of Administration

**Rule Type:** Legislative

**Title Number:** 148

**Cite Authority:** 5A-3-48

## STATEMENT OF CIRCUMSTANCE AND BRIEF SUMMARY

The rule modifications are being proposed as a result of a Legislative Post Audit Committee report done regarding the Alcohol Beverage Control Administration and oversight of state-owned automobile accidents. Said report recommended the legislative rules be modified to better address situations surrounding accidents and violations of state employees when utilizing a state-owned automobile.

Specifically, the proposed rule:

Adds and revises definitions;

Requires each agency appoint a fleet coordinator;

Clarifies that no passengers, except state employees, are permitted in vehicles without written approval;

Makes the operator personally responsible for citations, warrants or fines regarding the operation or parking of the vehicle;

Requires use of safety belts when in operation;

Requires all operators have a valid driver's license in good standing;

Removes the requirement of the Travel Management Office to monitor driving records of operators;

Removes the requirement for an accidents and violations review committee;

**Requires vehicles be kept on State property when not in use;**

**Prohibits using vehicle for personal use except de minimus use;**

**Simplifies the way you determine commuting value;**

**Removes language allowing for use of a privately owned vehicle;**

**Requires approval by the Travel Management Office prior to purchase of any vehicle;**

**Requires the purchases of automotive commodities and services be made from the statewide contract;**

**Requires reimbursement to Travel Management Office for administrative costs;**

**Removes and replaces language regarding the leasing of vehicles, credit card use, fuel purchases, operator and agency responsibilities, reporting of accidents, and Travel Management Office charges.**

**Agency:** Department of Administration  
**Rule Type:** Legislative

**Title Number:** 148  
**Cite Authority:** 5A-3-48

## **BRIEF SUMMARY OF COMMENTS RECEIVED; AGENCY RESPONSE; AND AMENDMENTS**

The only comments received by the Department of Administration regarding the rules were from the Alcohol Beverage Control Administration. Our responses are as follows:

**Comment 1:** Can a state employee use a personal vehicle for work and be reimbursed mileage? Under what conditions? Should the requirements of when to use a personal vehicle be included in the proposed rule?

**Agency Response 1:** This issue is addressed in the Travel Management Regulations and should not be a part of this rule.

**Amendment 1:** No amendment made

\*\*\*\*\*

**Comment 2:** If there is no state vehicles available for use at a spending unit, may the state employee rent a rental vehicle? Is specific authorization needed in the proposed rule for a spending unit to rent a vehicle?

**Agency Response 2:** This issue is addressed in the Travel Management Regulations and should not be a part of this rule.

**Amendment 2:** No amendment made.

\*\*\*\*\*

**Comment 3:** To be consistent with Section 10.8.1, section 10.7 of the proposed rule in the last line should state "responsibility of the assigned vehicle operator".

**Agency Response 3:** We agree with this recommendation.

**Amendment 3:** Rule amended as recommended.

\*\*\*\*\*

**Comment 4:** To be consistent with Section 10.8.1, section 10.8.2 of the proposed rule in the last line should state "reimbursement from the assigned vehicle operator".

**Agency Response 4:** We agree with the recommendation.

**Amendment 4:** Rule amended as recommended.

\*\*\*\*\*

**Comment 5:** Under section 10.9 of the proposed rule, 2 days is not very long to obtain police reports, which are not written by police officers for more than two days. Suggestion is 7 days to obtain an accident report, but notification to Travel Management Office (TMO) and BRIM should be 2 days.

**Agency Response 5:** We agree with the recommendation.

**Amendment 5:** Rule amended as recommended.

\*\*\*\*\*

**Comment 6:** Under section 10.9 of the proposed rule, what is an "accident report with sufficient detail to determine the circumstances of the accident"? This description is vague. There should be a preferred form or format provided to fleet coordinators who are not accident report experts. The proposed rule does not explain what TMO and BRIM are doing with the accident report. Please explain this rule.

**Agency Response 6:** We believe the rule is sufficient and no changes are necessary.

**Amendment 6:** No amendment made.

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**Comment 7:** Under section 10.9 of the proposed rule, in the second line after spending officer add "or fleet coordinator".

**Agency Response 7:** We agree with the recommendation.

**Amendment 7:** Rule amended as recommended.

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**Comment 8:** Under section 10.9 of the proposed rule, after the second paragraph, include the following sentence: Each spending unit and fleet coordinator must develop policies and procedures to address accidents and violations by assigned vehicle operators.

**Agency Response 8:** We agree with the recommendation.

**Amendment 8:** Rule amended as recommended.

\*\*\*\*\*



**STATE OF WEST VIRGINIA  
DEPARTMENT OF REVENUE  
ALCOHOL BEVERAGE CONTROL ADMINISTRATION**

322 70<sup>th</sup> Street, SE  
Charleston, West Virginia 25304-2900

JOE MANCHIN III  
GOVERNOR

DALLAS S. STAPLES  
COMMISSIONER

VIRGIL T. HELTON  
CABINET SECRETARY

July 7, 2009

Donna M. Lipscomb, Executive Coordinator  
Department of Administration  
Bldg. 1, Room E-119  
1900 Kanawha Blvd. East  
Charleston, WV 25305-0120

Re: Comments on Proposed Legislative Rule – 148 CSR 3

Dear Ms. Lipscomb:

Please review the following comments to the Department of Administration on its proposed legislative rule 148 CSR 3.

Comments:

- (1) Can a state employee use a personal vehicle for work and be reimbursed mileage? Under what conditions? Should the requirements of when to use a personal vehicle be included in the proposed rule?
- (2) If there are no state vehicles available for use at a spending unit, may the state employee rent a rental vehicle? Is specific authorization needed in the proposed rule for a spending unit to rent a vehicle (See Section 10.2)?
- (3) To be consistent with Section 10.8.1, section 10.7 of the proposed rule in the last line should state “responsibility of the assigned vehicle operator”.
- (4) To be consistent with Section 10.8.1, section 10.8.2 of the proposed rule in the last line should state “reimbursement from the assigned vehicle operator”.
- (5) Under Section 10.9 of the proposed rule, 2 days is not very long to obtain police reports, which are not written by police officers for more than a few days. Suggestion is 7 days to obtain an accident report, but notification to Travel Management Office (TMO) and BRIM should be 2 days.

Donna M. Lipscomb, Executive Coordinator  
Department of Administration  
July 7, 2009  
Page 2

- (6) Under Section 10.9 of the proposed rule, what is an “accident report with sufficient detail to determine the circumstances of the accident”? This description is vague. There should be a preferred form or format provided to fleet coordinators who are not accident report experts. The proposed rule does not explain what TMO and BRIM are doing with the accident report. Please explain in the rule.
- (7) Under Section 10.9 of the proposed rule, in the second line after spending officer add “or fleet coordinator”.
- (8) Under Section 10.9 of the proposed rule, after the second paragraph, include the following sentence, “Each spending unit and fleet coordinator must develop policies and procedures to address accidents and violations by assigned vehicle operators.”

If you need any additional information, please call me at 304-558-2481.

Sincerely,



Anoop Bhasin  
WVABCA General Counsel

Cc: Judy Cooper, Manager – WV SOS Administrative Law Division

RECEIVED  
2003 JUL 30 PM 3:32  
SECRETARY OF STATE  
OFFICE OF THE CLERK

TITLE 148  
LEGISLATIVE RULE  
DEPARTMENT OF ADMINISTRATION

SERIES 3  
STATE OWNED VEHICLES

**§148-3-1. General.**

1.1. Scope. – This Procedural Rule governs all State owned vehicles with the exception of those vehicles owned or leased by Division of Highways of the Department of Transportation, the Division of Public Safety of the Department of Military Affairs and Public Safety, the Division of Natural Resources, the Division of Forestry, the Department of Agriculture, the Higher Education Policy Commission and the Higher Education Governing Boards and their Institutions.

1.2. Authority. – W.Va. Code §5A-3-48.

1.3. Filing Date. – ~~May 26, 2005.~~

1.4. Effective Date. – ~~July 1, 2005.~~

**§148-3-2. Definitions.**

For purposes of these rules, unless a different meaning clearly appears from the context:

2.1 “Control employee” means an elected official or employee whose compensation equals or exceeds the compensation paid to a Federal Government employee holding a position as defined in the Federal Tax Regulations §1.61-21, as amended.

2.2 “Department” means an entity of the State government, as created by W.Va. Code §5F-1-2.

2.3 “Department of Administration” means the entity of State government created by W.Va. Code §5F-1-1 et seq.

2.4 “Non-employee” means an agent, broker, contractor, person involved in missions of mercy or medical emergency, or other persons outside the state government of the State of West Virginia who have a connection with or may have a relationship to State business.

~~2.4~~ 2.5 “Official business” means business on behalf of the State of West Virginia.

~~2.5~~ 2.6 “Privately owned vehicle” means a vehicle owned by the operator. “Operator” means a person to whom a state owned vehicle is assigned.

~~2.6~~ 2.7 “Purchasing Division” means the entity of State government within the Department of Administration created by W.Va. Code §5A-1-2.

~~2.7~~ 2.8 “Qualified Nonpersonal Use” means official business use or de minimis personal use, such as stopping for meals while traveling. “Secretary” means the Secretary of the Department of Administration.

~~2.8~~ 2.9 “Secretary” means the Secretary of the Department of Administration. “Spending Officer” means the executive head of a spending unit, or a person designated by him or her, as created by W.Va. Code §5A-1-1.

~~2.9~~ 2.10 “Spending unit” means a department, agency or institution of the State government for which an appropriation is requested, or to which an appropriation is made by the West Virginia Legislature, as defined by W.Va. Code §5A-1-1.

~~2.10~~ 2.11 “State owned vehicle” means a vehicle owned by the State of West Virginia and licensed to the Travel Management Office of the Purchasing Division of the Department of Administration.

~~2.11~~ 2.12 “Travel Management Office” means the entity within the Purchasing Division responsible for the storage purchase, lease, maintenance and repairs of all State owned vehicles, except those exempted by W.Va. Code §5A-3-48.

2.13 “Vehicle” means any vehicle less than one (1) ton in weight designed for transporting passengers.

**§148-3-3. Questions, and Interpretations, and Communications.**

~~Questions concerning this rule should be directed to the Department of Administration, Travel Management Office. Interpretations of matters contained within this rule may be issued by the Secretary either directly or through the Administrator of the Travel Management Office, at the discretion of the Secretary.~~

Each agency shall appoint an agency fleet coordinator for the purpose of facilitating communications between the Travel Management Office and the leasing agencies.

**§148-3-4. Titles to State Owned Vehicles.**

All State owned vehicles, other than those owned or leased by the Division of Highways or the Division of Public Safety, must be titled in the name of the State of West Virginia, Department of Administration, Travel Management Office.

**§148-3-5. Leasing of Vehicles – Generally.**

5.1 All vehicles utilized by spending units must shall be leased from the Travel Management Office, unless the Travel Management Office has approved leasing a vehicle from another source.

5.2 At the discretion of the Travel Management Office, ~~on behalf of the Secretary,~~ a vehicle lease may be terminated by the Travel Management Office at any time for any reason or purpose.

5.3 State owned vehicles should be used when the mission of the traveler requires a vehicle to be at his or her disposal ~~either for official business transportation, requirements enroute, at his or her destination, and/or at his or her assigned headquarters, as defined by the Executive Officer of the Department or by the Executive Officer of a spending unit not assigned to a Department.~~

5.4 All vehicles governed by this rule must meet the minimum mileage criteria established by the Travel Management Office. ~~and approved by the Secretary of the Department of Administration.~~ Exceptions to the mileage criteria may be granted by the Travel Management Office with the consent of the Secretary of the Department of Administration when recommended by the spending officer or his or her designee in writing.

#### **§148-3-6. Use of State Owned Vehicles.**

~~6.1 State owned vehicles may be used by State employees and/or non-employees, as defined herein. as necessary or reasonable. Non-employees are agents, brokers, contractors, persons involved in missions of mercy or medical emergency, or other persons outside the state government of the State of West Virginia who have a connection with or may have a relationship to State business. Necessary and reasonable are relative terms. The use of a vehicle is necessary if it is the best way to accomplish the business objectives of the State of West Virginia; the use of a vehicle is reasonable if the offsetting advantages or the value to the State of West Virginia will surpass the actual costs for providing and operating the vehicle. No passengers other than state employees and/or nonemployees are permitted in vehicles without the specific written approval of the spending officer.~~

~~When State owned vehicles are used by non-employees for other than a temporary assignment, one day or less, advance approval in writing is required to be issued by the Travel Management Office.~~

~~6.2 No passengers, other than state employees and/or non-employees, as necessary or reasonable, are permitted in vehicles without the specific written approval of the Secretary of the Department, or the Executive Office of the spending unit if the spending unit is not part of a Department, to which the vehicle is leased. Non-employees may be agents, brokers, contractors, persons involved in missions of mercy or medical emergency, board or commission members, clients, patients, prisoners, students, or others entrusted to the State for their care, incarceration, placement, or protection, or other persons outside the state government of the State of West Virginia who have a connection with or may have a relationship to State business.~~

### **§148-3-7. Insurance Coverage.**

~~Liability insurance is provided for vehicles by the State Board of Risk and Insurance Management. Coverage is extended for the protection of the authorized operator and authorized passengers while using a vehicle within the confines of this rule and all applicable laws, ordinances, or rules.~~

### **§148-3-8. Safe Operation Required.**

#### **8.1 General Responsibility**

~~The operator of a State owned vehicle is responsible for the vehicle he or she operates. All operators of State owned vehicles are subject to all laws, ordinances and rules governing the operation of a motor vehicle. Failure to operate a State owned vehicle in a safe and reasonable manner, or in contravention to this rule or any other applicable law, ordinance or rule may result in the suspension of use of vehicles for that operator.~~

~~The vehicle operator is personally responsible for responding to any and all citations or warrants issued or fines levied regarding the operation or parking of the vehicle, including towing charges, to which he or she is assigned (either temporarily or permanently) and is personally liable for any and all fines or penalties – criminal or civil.~~

#### **8.2 Leaving Vehicle.**

~~Whenever a vehicle is left unattended, the operator shall turn the vehicle off, remove keys from the vehicle, close all windows, lock all doors/hatches/trunks, and remove or conceal from outside view all business and personal items.~~

#### **8.3 Use of Seat Belts.**

~~The operator and front passengers must use combination lap and shoulder safety belts, if available. When combination lap and shoulder safety belts are available in the rear seat of a vehicle, the safety belts must be used: when the vehicle is in operation.~~

#### **8.4 Driver's License Required.**

~~When a lease of a vehicle is requested, an inquiry may be made to the Division of Motor Vehicles of the Department of Transportation for a review of the proposed operator's driving record. All operators must have a valid operator's (driver's) license in good standing.~~

#### **8.5 Injuries.**

~~In the event an injury occurs in conjunction with the operation of the vehicle, failure to comply with this rule may result in a determination that the operator or passenger contributed to his~~

or her injuries.

#### ~~8.6 Reviewing Driving Records of Operators.~~

~~In the event of an accident, property damage of any kind or any damage to any State owned vehicle, the Travel Management Office will review the involved operator's driving record with the Division of Motor Vehicles. Additionally, the Travel Management Office will randomly review the driving records of the operators of State owned vehicles. Results of the Division of Motor Vehicles inquiries which indicate a record of accidents or violations will be brought before an Accidents and Violations Review Committee.~~

~~— The Accidents and Violations Review Committee will be comprised of a representative of the Travel Management Office, one representative of the Secretary of Administration's office, and two representatives of the operator's department - one representative selected by the Secretary of that department and the second representative selected by the vehicle operator. Decisions by the committee will be based on the administrative action chart attached hereto as Exhibit A.~~

#### **§148-3-9. Permissible Uses.**

##### 9.1 Generally.

Leased State owned vehicles, including temporarily leased vehicles, may be used under only one of the two (2) categories or conditions:

9.1.1 Use by a number of employees; or

9.1.2 Use by primarily one (1) employee.

##### 9.2 Use by a Number of Employees.

When a State owned vehicle is leased for use by a number of employees, the vehicle: must be kept on State property when not in use.

~~9.2.1 must be kept on State property when not in use (the State property and the residence of the employee cannot be the same except as approved in writing by the Travel Management Office.~~

~~9.2.2 cannot be used for personal purposes except for minimal (de minimus) personal convenience, i.e., stopping for meals while traveling;~~

~~9.2.3 is designated as a "qualified nonpersonal use vehicle."~~<sup>22</sup>

##### 9.3 Use by Primarily One Employee.

When a State owned vehicle is leased for State business use by primarily one employee, the vehicle:

9.3.1 is assigned to an employee that has been required by ~~his or her Department Executive Officer, or the Executive officer of his spending unit if the spending unit has not been assigned to a department,~~ the Spending Officer in writing to commute to and/or from work for bona fide noncompensatory business reasons; and

9.3.2 cannot be used for personal purposes except for de minimus personal use commuting and minimal personal convenience, i.e. stopping for meals while traveling; and

9.3.3 is designated as a “qualified nonpersonal use vehicle” and/or is not assigned to an employee designated a “control employee” or “law enforcement officer” as defined by the Internal Revenue Services of the Department of Treasury; and

9.3.4 is assigned to an employee that authorizes a monthly payroll deduction for the commuting value or completes a “Statement of Commuting Value” as designated by the Travel Management Office.

#### 9.4 Determining Commuting Value

In accordance with Federal Tax Regulations issued by the Internal Revenue Service of the Department of the Treasury, the State of West Virginia will place a “commuting value” of \$1.50 one way or \$3.00 roundtrip per day (or the amount referenced in the “Commuting Valuation Rule” or equivalent of the Department of the Treasury, Internal Revenue Service of the Federal Government rules and/or regulations, whichever is greater) for each day the vehicle is used for commuting purposes based on two (2) methods:

9.4.1. An assignment to an individual employee when used for commuting will have a monthly payroll deduction of three dollars (\$3.00) per business day based on the Division of Personnel’s calendar. For purposes of this computation, business days also exclude annual and sick leave. based on the following:

Business days per year	261
261	
Average non-business days (includes holidays and annual/sick leave)	49
49	
Business days for calculation	212
212	
“Commuting Value” per day	\$3.00
“Commuting Value” per month	\$53.00

~~“Commuting Value” per year~~ ————— ~~\$636.00~~

#### 9.4.2. Temporarily Assigned Vehicles:

If an employee has been assigned a vehicle on a temporary basis and the vehicle is used to commute to and/or from work during that temporary assignment, the employee must complete and submit to his or her spending unit business office a “Statement of Commuting Value” as designated by the Travel Management Office with payment attached to reimburse the State for the “commuting value.”

A “Statement of Commuting Value” must be completed for each month in which the employee has been assigned a State owned vehicle and has used it for commuting. The “Statement of Commuting Value” must be submitted to the employee’s spending unit business office with a copy to the Travel Management Office within fifteen (15) business days from the last day of the reporting month. Failure to submit the form may result in the termination of the assignment of a vehicle to the employee as well as any applicable penalties by the Department of Treasury, Internal Revenue Service of the Federal Government.

#### ~~9.5 Use of Privately Owned Vehicles:~~

~~When a State owned vehicle is not available or the operator is not eligible for a vehicle assignment, a privately owned vehicle may be used in lieu of a State owned vehicle. Reimbursement shall be at a rate equal to the amount authorized for privately owned vehicle use stated in the travel regulations governing the operator.~~

### **§148-3-10. Leasing and/or Purchasing Non-Travel Management Vehicles.**

#### 10.1 A vehicle purchase must first be approved by the Travel Management Office.

The vehicle must be titled to the State of West Virginia, Department of Administration, Travel Management Office. Agencies must not increase their fleet without prior approval from the Travel Management Office.

#### 10.2 Leasing and/or Purchasing Non-Travel Management Vehicles.

~~10.1:~~ The Travel Management Office may authorize the lease and/or purchase of vehicles by spending units from entities other than the Travel Management Office, with the spending unit to operate and maintain the vehicles and to assume the responsibility for all vehicle-related expenses and to reimburse the Travel Management Office for administrative costs.

~~10.2~~ The spending unit will report all vehicle-related activity, assignments and expenses, including administrative and clerical expenses, to the Travel Management Office within the time frame and in the format specified by the Travel Management Office. All leasing, mileage, operator

~~and passenger criteria specified in this rule apply to spending unit maintained vehicles unless otherwise specified by the West Virginia Code.~~

~~10.3 A vehicle purchase must be approved by the Travel Management Office prior to the purchase. A retirement form must accompany the request for the purchase of a replacement vehicle, unless otherwise authorized by the Travel Management Office. Upon arrival, the spending unit will proceed with the purchase and will title the vehicle to the State of West Virginia, Department of Administration, Travel Management Office, which will license the vehicle. The replacement vehicle will not be released to the spending unit unless the title is in the name of the State of West Virginia, Department of Administration, Travel Management Office and the vehicle designated for surplus is in the possession of the Travel Management Office or stored by the spending unit as designated by the Travel Management Office.~~

### 10.3. Leasing Travel Management Office Vehicles.

#### 10.3.1 Generally.

Vehicles shall be leased from the Travel Management Office upon the established terms and conditions and at the rates specified by the Travel Management Office. The Travel Management Office will specify the rates for lease of vehicles to departments, with such rates approved by the Secretary of the Department of Administration. In addition, the spending unit will pay all vehicle expenses for abuse, misuse and cleaning of the exterior and interior of the vehicle. Upon retirement, all vehicles will be delivered to the State Agency for Surplus Property in a condition consistent with normal wear and tear unless otherwise approved by the Travel Management Office.

#### 10.4 Requirements for Leasing.

A department desiring to lease a vehicle from the Travel Management Office will submit a written request in the form designated by the Travel Management Office. The determination of whether to approve the request to lease a vehicle from the Travel Management Office will be subject to:

10.4.1 spending unit requirements and justification;

10.4.2 available inventory or opportunity to transfer vehicles;

10.4.3 available funding to satisfy requirements; and/or

10.4.4 complying with all terms and conditions of lease agreements entered into with the Travel Management Office.

### 10.5 Travel Management Office Credit Card.

A credit card is assigned to vehicles leased by the Travel Management Office and shall be used for vehicle-related expenses such as fuel purchases, repairs, maintenance, towing charges, etc.

Any purchase not made via the credit card assigned to the vehicle will be considered a personal expense of the vehicle operator and paid or reimbursed at the sole discretion of the Travel Management Office at the recommendation of the spending officer.

#### 10.6 Statewide Contracts for Automotive Commodities and Services.

All statewide contracts for automotive commodities and services must be used except in instances of operational failure or where the safety of the operator would be compromised.

#### 10.7 Fuel Purchases.

All fuel purchases must be for regular unleaded or diesel unless a higher grade is required by the manufacturer, requested in writing by the spending officer, and approved by the Travel Management Office. Fuel purchases made in violation of this section will be the personal responsibility of the assigned vehicle operator.

#### 10.8 Responsibilities of Operators and Spending Units.

##### 10.8.1 Routine Maintenance.

Routine checking of the oil level, tire pressure and tire wear, as well as other safety-related equipment, is the responsibility of the operator, or in the case of multiple operator vehicles, the spending unit to which the vehicle is assigned. The cost of repairs or replacement as a result of the vehicle not being maintained on a regular and routine basis will be the responsibility of the spending unit to which the vehicle is assigned. It will be at the discretion of the spending unit to seek reimbursement from the vehicle operator.

##### 10.8.2 Routine Cleaning.

The routine cleaning of the assigned vehicle, including the interior and exterior of the vehicle, is the responsibility of the assigned operator or spending unit, in the case of multiple operator vehicles, to which the vehicle is assigned. The cost of repairs or extensive cleaning as a result of the vehicle not receiving reasonable care and cleaning will be the responsibility of the spending unit to which the vehicle is assigned. It will be at the discretion of the spending unit to seek reimbursement from the assigned vehicle operator.

#### 10.9 Reporting and Review of Accidents and Violations.

Accidents must be investigated by the spending unit within two (2) calendar days of the accident. The spending officer or fleet coordinator must provide notification to the Travel Management Office and BRIM within two (2) calendar days of an accident. The police report must

be provided to the Travel Management Office and BRIM within seven (7) days.

In the event of an accident, violation, or when it is deemed necessary by the spending unit, the driving records of the operator will be reviewed and appropriate action shall be taken by the spending unit. Each spending unit and fleet coordinator must develop policies and procedures to address accidents and violations by assigned vehicle operators

#### 10.10 Travel Management Office Charges.

##### 10.10.1 Invoicing and Payments.

An invoice will be issued on a regular basis.

#### 10.11 Arrearages.

Any spending unit account that becomes seriously delinquent in paying the Department of Administration or designated vehicle services contractor fees may have the credit card provided by the Travel Management Office suspended or may be required to return the leased vehicle to the Travel Management Office.

### **~~§148-3-11. Leasing Travel Management Office Vehicles:~~**

#### ~~11.1. Travel Management Office Leases:~~

##### ~~11.1.1. Generally:~~

~~Vehicles may be leased from the Travel Management Office upon the terms and conditions agreed by the parties and at the rates specified by the Travel Management Office. The Travel Management Office will specify the rates for lease of vehicles to departments, with such rates approved by the Secretary of the Department of Administration. The rates will be specified on a monthly basis per type of vehicle and will provide for all reasonable vehicle expenses, including, but not limited to, authorized fuel purchases, preventative maintenance, general maintenance and repairs, tires, insurance, depreciations, replacement and administrative costs. In addition, the spending unit will pay all vehicle expenses for abuse, misuse and cleaning of the exterior and interior of the vehicle.~~

##### ~~11.1.2. Based on number of operators:~~

~~Vehicles are to be assigned by the Travel Management Office for:~~

~~11.12.a. multiple operators — the vehicle will be used by a number of employees of the spending unit on an “as necessary” basis as determined by the spending unit;~~

~~11.12.b. an individual operator — assigned to and primarily used by one~~

employee.

#### ~~11.2. Requirements for Leasing:~~

~~A department desiring to lease a vehicle from the Travel Management Office will submit a written request in the form designated by the Travel Management Office. The determination of whether to approve the request to lease a vehicle from the Travel Management Office will be subject to:~~

~~11.2.1. spending unit requirements and justification;~~

~~11.2.2. assigned operator qualifications;~~

~~11.2.3. proper and efficient utilization of vehicles assigned to the spending unit;~~

~~11.2.4. available inventory or opportunity to transfer vehicles; and/or~~

~~11.2.5. available funding to satisfy requirements.~~

#### ~~11.3. All Leases with Departments:~~

~~The Travel Management Office will lease all vehicles to a spending unit at a department level, e.g., the Department of Commerce, Labor, & Environmental Resources, the Public Service Commission, or the Department (State Board) of Education.~~

#### ~~11.4. State Owned Vehicle Log:~~

~~Each month the assigned operator of a vehicle must complete a "State Owned Vehicle Log" as designated by the Travel Management Office. This log is to be returned to the Travel Management Office by the vehicle operator. Instructions on what information is to be reported are found on the log. Any questions concerning the completion of the log may be directed to the Travel Management Office or the designated contractor for vehicle services (the designated contractor and applicable telephone numbers are found in the information & registration packet in each vehicle).~~

#### ~~11.5. Travel Management Office Charge/Credit Card:~~

~~A charge/credit card is assigned to vehicles leased by the Travel Management Office. Fuel purchases, repair and maintenance, and towing charges must be authorized by the designated vehicle services contractor and charged via the charge/credit card. All repairs related to an accident must be approved by the Travel Management Office regardless of the estimated amount of the repair.~~

~~Any purchase not made via the charge/credit card assigned to the vehicle must be included on the "State Vehicle Log"; such purchases are considered a personal expense of the vehicle operator and are paid or reimbursed at the sole discretion of the Travel Management Office.~~

#### ~~11.6. Tires and Batteries Purchases.~~

~~Tires and batteries shall be requested through the Travel Management Office so that the purchases are made using any statewide contracts in effect.~~

#### ~~11.7. Fuel Purchases.~~

~~11.7.1. Fuel purchases will only be made at state-owned or state-contracted facilities when available.~~

~~11.7.2. Purchases of fuel from self service facilities other than those owned by the State or under contract to the State may be approved for payment by the executive officer of the spending unit without any action from the Travel Management Office when the purchase is made out-of-state.~~

~~11.7.3. Purchases of fuel from self-service facilities other than those owned by the State may be approved for payment or reimbursement by the Travel Management Office when the purchase is made during emergencies and/or when circumstances are such that the use of state-owned facilities is not reasonable. Such purchases must be justified by the vehicle operator, reviewed, and approved by the Travel Management Office.~~

~~11.7.4. Purchases of fuel at full service prices, if identified as a charged item, may be added to the lease invoice to the leasing spending unit.~~

~~11.7.5. Purchases of the fuel designated by the Travel Management Office for alternative fuel, fuel-flexible, or electric powered vehicles may be approved for payment or reimbursement without any action by the Travel Management Office. Purchases of fuel other than the fuel designated for the vehicle by the Travel Management Office will not be reimbursed and, if identified as a charged item, will be added to the lease invoice issued to the leasing spending unit.~~

#### ~~11.8. Responsibilities of Operators and Spending Units.~~

##### ~~11.8.1. Routine Maintenance:~~

~~Routine checking of the oil level, tired pressure and tire wear is the responsibility of the assigned operator, or in the case of multiple operator vehicles, the spending unit to which the vehicle is assigned. The cost of repairs or replacement as a result of the vehicle not being checked on a regular and routine basis will be charged to the spending unit to which the vehicle is assigned. It will be at the discretion of the spending unit to seek reimbursement from the vehicle operator.~~

##### ~~11.8.2. Routine Cleaning:~~

~~The routine cleanliness of the assigned vehicle, including the interior and exterior of~~

the vehicle, is the responsibility of the assigned operator or spending unit, in the case of multiple operator vehicles, to which the vehicle is assigned. The cost of repairs or extensive reasonable care and cleaning will be charged to the spending unit to which the vehicle is assigned. It will be at the discretion of the spending unit to seek reimbursement from the assigned operator.

#### ~~11.8.3. Operator Deficiencies:~~

~~All operator deficiencies are to be reported to the Travel Management Office as soon as discovered:~~

#### ~~11.9. No Smoking Permitted:~~

~~All state owned vehicles are designated "NO SMOKING"; assigned operators are responsible for any and all costs related to repairs, replacement, cleaning, and/or deodorizing the vehicle due to smoking by either the operator or his/her passenger(s):~~

#### ~~11.10. Reporting of Accidents:~~

~~Accidents, to any degree, must be~~

~~11.10.1. investigated by the operator, and the operator must complete a Division of Motor Vehicle "Operator's or Owner's Accident Report" (DMV 121SE or equivalent), within two (2) calendar days of the accident; and~~

~~11.10.2. reported to the Travel Management Office and/or the vehicle services contractor designated by the Travel Management Office:~~

~~Accidents involving injury or injuries to any party must be immediately reported to a law enforcement agency serving the area in which the injury occurred. Failure to report such an accident can result in criminal charges being filed against the vehicle operator. The Travel Management Office will suspend the operator from using State owned vehicles for failing to immediately report an accident involving injuries.~~

#### ~~11.11. Travel Expenses Accounts vs. State Owned Vehicles Invoices.~~

~~Receipts for use of the state owned vehicles are by invoices issued by or through the Department of Administration. Individual travel expense accounts are to be processed for reimbursement without corresponding receipts or invoices for the use of state owned vehicles, but the travel expense account must reference, by license number, the use of a State owned vehicle for transportation:~~

#### ~~11.12. Travel Management Office Charges:~~

##### ~~11.12.1. Charges.~~

~~The Travel Management Office will specify the rates for lease of vehicles to departments, with such rates approved by the Secretary of the Department of Administration. The rates will provide for reasonable vehicle expenses, including, but not limited to, authorized fuel purchases, preventative maintenance, general maintenance and repairs, insurance, tires, insurance, depreciation, replacement and administrative costs. However, the spending unit will be responsible for all expenses related to abuse and/or misuse of the vehicle.~~

#### ~~11.12.2. Invoicing and Payments:~~

~~An invoice will be issued on a regular basis by the Department of Administration to each spending unit leasing vehicles from the Travel Management Office. The amount invoiced per vehicle will include the normal charge for the vehicle based upon the rates established by the Travel Management Office and approved by the Secretary. The rate will include, but be limited to, authorized fuel purchases, preventative maintenance, maintenance and repairs, tires, insurance, depreciation, replacement and administrative costs.~~

~~Each invoice will reference, by license number, the vehicle leased, the monthly base rate for the vehicle, any mileage charges for the use of the vehicle beyond the mileage allotted in the based rate, any miscellaneous charges or credits, the Department of Administration account number to which the payment is to be made, and any other information that the Travel Management Office deems appropriate.~~

~~Payment to the Department of Administration from the spending unit may be from either a single account or multiple accounts based on the spending unit's needs or funding requirements. Each payment must be referenced to a specific invoice.~~

#### ~~11.12.3. Arrearages:~~

~~In order for the Travel Management Office to provide expected and promised services and to maintain secure vendor relationships, any spending unit account that becomes seriously delinquent in paying the Department of Administration will have the charge/credit cards provided by the Travel Management Office suspended for use by those vehicles leased to the spending unit and/or have the vehicles secured by the Travel Management Office, at the discretion of the Travel Management Office. Upon bringing the spending unit account to a current status with the Department of Administration, the cards will be reinstated and/or the vehicles may be returned to the spending unit.~~

#### ~~11.13. Replacement Vehicles:~~

~~Vehicle replacements are determined by a State owned vehicle Replacement Schedule issued by the Travel Management Office and approved by the Secretary of the Department of Administration.~~

**~~EXHIBIT A~~**

~~Administrative Action for State Owned Vehicle Operators~~

<del>POINTS</del>	<del>ACCIDENTS</del>	<del>ACTION</del>
<del>04 - 06</del>	<del>or 1 Not-At-Fault or Non-Preventable</del>	<del>Verbal Counseling by the AVRC</del>
<del>06 - 08</del>	<del>or 2 Not-At-Fault or Non-Preventable or 1 At-Fault or Preventable</del>	<del>Written Reprimand and Defensive Driving Course</del>
	<del>3 Not-At-Fault or Non-Preventable</del>	<del>Written Reprimand and suspension for a Maximum 03 Months</del>
<del>09 - 10</del>	<del>or 2 At-Fault or Preventable</del>	<del>Suspension for a Minimum 03 Months to a Maximum 12 Months</del>
<del>11 - 12</del>	<del>or</del>	<del>Suspension until WV operators license is reinstated and operating privileges are approved</del>
<del>SUSPENSION</del>	<del>or</del>	<del>by the AVRC</del>
<del>REVOCATION</del>	<del>3 At-Fault or Preventable</del>	<del>Mandatory 1 year suspension of operating privileges</del>

~~Notes: Not-At-Fault Accidents are those where the vehicle operator is not cited by a law enforcement agency official. Non-Preventable Accidents are those that the AVRC determine to be beyond the control of the operator or those that the operator did not contribute to the circumstances that led to the accident.~~

~~At-Fault Accidents are those where the vehicle operator is cited by a law enforcement agency official. Preventable Accidents are those that the AVRC determine to be within the control of the operator or those that the operator contributed or appeared to contribute to the circumstances that led to the accident.~~

~~Suspension or Revocation, in the context of POINTS, is the suspension of an operator's license by the Division of Motor Vehicles. Suspension, in the context of ACTION, is the suspension of operating privileges of a State Owned Vehicle.~~

~~AVRC is the Accident & Violation Review Committee.~~

~~Not to be filed with rule~~

~~Department of Administration Purchasing Division / Travel Management Office~~

~~State Owned Vehicles Rate Chart (Effective 1 July 1991)~~

~~Vehicle Category Rate / Month (Base Rate) Rate / Mile (>1500/Month) Rate  
Code Medium Sedan / Minivan \$410.00 .22/mile L1 Large Sedan  
\$465.00.33/mile L2 Medium Pickup Truck \$395.00.28/mile L4 Cargo/Sport Van  
\$395.00.28/mile L4 Maxiwagon Van \$510.00.36/mile L5 1 Ton Truck  
\$510.00.36/mile L5 Four Wheel Drive \$510.00.36/mile L5~~

~~Rates are calculated by applying the "Rate/Month" plus the "Rate/Mile" for all miles driven over 1500 miles per month. Please note that all rates are subject to change as conditions dictate (note that these rates are, on the average, 4.75% less than FY90 rates).~~

~~The "base rate" includes the vehicle lease, authorized fuel purchases, preventative maintenance, general repairs and maintenance, tires, insurance, depreciation, replacement and administrative costs. The "base rate" excludes unauthorized fuel purchases, installation and repairs to agency equipment, exterior & interior cleaning, and repairs required due to operator negligence and/or carelessness.~~

~~NO SMOKING is permitted in State Owned Vehicles.~~

## APPENDIX B

### FISCAL NOTE FOR PROPOSED RULES

Rule Title: State Owned Vehicles

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Department of Administration

Address: 1900 Kanawha Boulevard, East

Building 1, Room E-119

Charleston, WV 25305

#### 1. Effect of Proposed Rule:

	ANNUAL FISCAL YEAR				
	Increase	Decrease	Current	Next	Thereafter
<b>ESTIMATED TOTAL COST</b>	0	0	0	0	0
<b>PERSONAL SERVICES</b>					
<b>CURRENT EXPENSE</b>					
<b>REPAIRS &amp; ALTERATIONS</b>					
<b>EQUIPMENT</b>					
<b>OTHER</b>					

#### 2. Explanation of Above Estimates:

There will be no fiscal impact as a result of the passage of this rule. There may be a decrease in administrative duties of the Travel Management Office which could result in more efficiencies. The modifications being proposed are to clarify responsibilities as it relates to state-owned vehicles.

**3. Objectives of These Rules:**

**Rule Title:** State Owned Vehicles

**4. Explanation of Overall Economic Impact of Proposed Rule:**

**A. Economic Impact on State Government:**

None

**B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:**

None

**C. Economic Impact on Citizens/Public at Large.**

None

**Date:** 7/27/09

**Signature of Agency Head or Authorized Representative:**

Bar Jorgensen Jr. Idl



f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (please type)

Donna Lipscomb, Executive Coordinator

Department of Administration

1900 Kanawha Boulevard, East

State Capitol, Room E-119

Charleston, WV 25305

304-558-3392

g. IF DIFFERENT FROM ITEM "f", please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (please type)

David Tincher, Director of Purchasing

2019 Washington Street, East

Charleston, WV 25301

304-558-2538

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

June 25, 2009 through July 27, 2009

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A