



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Administration

RULE TYPE: Legislative

TITLE-SERIES: 148-03

RULE NAME: State Owned Vehicles

CITE AUTHORITY: §§5A-1-2 and 5A-3-48

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

**TITLE 148
LEGISLATIVE RULE
DEPARTMENT OF ADMINISTRATION**

**SERIES 3
STATE-OWNED VEHICLES**

§148-3-1. General.

1.1. Scope. -- This legislative rule establishes guidelines for management of all motor vehicles with a vehicle rating of one-ton (3500/350) or less owned or possessed by the State of West Virginia or any of its departments, divisions, agencies, bureaus, boards, commissions, offices or authorities. This rule does not apply to all terrain vehicles (ATVs) or vehicles requiring a commercial driver's license to operate. Spending units may request a determination of applicability from the Department of Administration Fleet Management Office for other special-use equipment. Factors determining eligibility will include the manufacturer's intended use of the equipment, and any special training, certification, or additional licensures required for safe operation.

1.2. Authority. – W.Va. Code §5A-1-2(f) and §5A-3-48.

1.3. Filing Date. –

1.4. Effective Date. –

1.5. Sunset provision. – This rule shall terminate and have no further force or effect upon the expiration of five years from its effective date.

1.6. Repeal and replace – This legislative rule repeals and replaces §148-3, State Owned Vehicles, filed April 13, 2015, and effective July 1, 2015.

§148-3-2. Definitions

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

2.1. “Agency fleet coordinator” means the person within a spending unit designated to be the contact for the spending unit to the Fleet Management Office and for compiling and reporting vehicle information to the Fleet Management Office.

2.2. “Authorized passenger” means a personnel classification such as agent, broker, contractor, persons involved in mission of mercy or medical emergency; other personnel not employed by the State of West Virginia who have a connection with or may have an official business relationship with the State; and recipients of health, public safety, and welfare services performed by the State; and who are formally authorized by the spending unit director.

2.3. “Commuting” means the use of a state vehicle by an employee who has been assigned a state vehicle, whether permanent or temporary, to drive to and from the employee’s home and regular place of employment.

2.4. “De Minimis personal use” means the use of a state-owned vehicle for personal purposes, of which the value of that personal use is so small that accounting for it would be unreasonable and administratively impractical, including while commuting when permitted.

2.5. “Fleet Management Office” means the agency within the Department of Administration that manages state-owned vehicles, including purchase, fueling, maintenance and repairs.

2.6. “Hazardous material” means materials that are radioactive, flammable, explosive, corrosive, oxidizing, asphyxiating, biohazardous, toxic pathogenic, or allergic. Also included are physical characteristics such as compressed gases and liquids or hot materials, including all materials that may render them hazardous in specific circumstances.

2.7. “Pool vehicle” means a vehicle that is owned by a spending unit and is available for use by multiple employees in the performance of their job duties.

2.8. “State-owned vehicle” means any vehicle that is owned, operated or acquired, regardless of intended use, by the State of West Virginia, but does not include employees’ personal vehicles used for official state business or vehicles rented on behalf of a state agency.

2.9. “Spending unit” means the department, agency or institution of the state government for which an appropriation is requested, or which an appropriation is made by the Legislature as defined by *W.Va. Code §5A-1-1*.

2.10. “Under-utilized vehicle” means a vehicle that does not meet the standards set forth in Section 9 of this rule, and has received a waiver for the minimum mileage requirement by the Fleet Management Office.

§148-3-3. Agency Fleet Coordinators.

3.1. Each spending unit which has state-owned vehicles shall designate an agency fleet coordinator as point of contact between the agency and the Fleet Management Office. The agency fleet coordinator will be charged with tracking the agency’s state-owned vehicles, reporting required information to the Fleet Management Office, and communicating with the Fleet Management Office regarding management of the vehicles assigned to the agency. On or before July 1, 2018, each spending unit shall designate an agency fleet coordinator on the form prescribed by the Fleet Management Office, and notify the Fleet Management Office within 30 days of any change in designated agency fleet coordinator.

3.2. Agency fleet coordinators are responsible for ensuring employees assigned a state-owned vehicle by the spending unit are familiar with all rules, policies and programs related to state-owned vehicle use. Agency fleet coordinators are required to review and document driver

understanding of these rules, policies and programs no later than January 15th, each calendar year on the form designated by the Fleet Management Office.

3.3. On or before July 1, 2018, each agency fleet coordinator shall input identifying information of each state-owned vehicle which the agency fleet coordinator manages into the centralized inventory database governed by the Enterprise Resource Planning Board in a manner designated by the Fleet Management Office.

§148-3-4. Purchase of New or Replacement Vehicles.

4.1. Regardless of means of acquisition, a spending unit may not add or replace vehicles in its fleet without prior notification and approval by the Fleet Management Office. The request shall be made on the form prescribed by the Fleet Management Office. The Fleet Management Office shall respond to the request by the spending unit within five business days of receiving the request.

4.2. The Fleet Management Office will approve the purchase of a new vehicle to replace an existing vehicle:

4.2.a. if the existing vehicle is more than five years old and has more than 120,000 miles.

4.2.b. if the existing vehicle is destroyed and is considered a total loss, or

4.2.c. if the existing vehicle requires repairs or maintenance with costs that cannot be justified based upon the remaining life of the vehicle.

§148-3-5. Financing arrangements for state-owned vehicles.

5.1. To facilitate vehicle purchases for agencies, the Fleet Management Office may use appropriated funds to secure credit for vehicle purchases, and offer financing arrangements to agencies for the purchase of new vehicles.

5.1.a. The Fleet Management Office will retain title to the state-owned vehicle.

5.1.b. The financing agreements will be for a period of at least 12 months and no more than 48 months.

5.2. The purchasing agency is responsible for regular maintenance, upkeep and operation costs of a vehicle subject to a financing agreement.

5.3. The Fleet Management Office may terminate the financing agreement when the purchasing agency becomes more than 90 days delinquent on regular monthly payments, when the purchasing agency fails to adequately maintain the vehicle, or when the purchasing agency uses the vehicle inconsistent with its intended purpose.

§148-3-6. Title and registration of state-owned vehicles.

6.1. All state-owned vehicles shall be titled in the same manner as the centralized inventory database governed by the Enterprise Resource Planning Board.

6.1.a. The Fleet Management Office shall coordinate with the Division of Motor Vehicles to ensure a standardized title format for state-owned vehicles that is compatible with the centralized inventory database governed by the Enterprise Resource Planning Board.

6.2. Spending units must provide the Fleet Management Office with a copy of the title and registration of all state-owned vehicles, regardless of the means by which the vehicle was acquired, within 30 days of acquisition. If an agency has a state-owned vehicle that does not comply with the requirements of this rule, the agency shall obtain a corrected title and provide a copy to the Fleet Management Office.

6.3. When a spending unit dispenses with a state-owned vehicle, the spending unit shall provide a copy of the executed title to the Fleet Management Office within thirty days of dispensation.

6.4. State-owned vehicles shall be licensed with the official state license plate on the rear bumper and display the “State Car” license plate on the front bumper, except for those vehicles authorized to display a Class A license plate pursuant to West Virginia Code §17A-3-23.

§148-3-7. Permissible use and care of state-owned vehicles.

7.1. It is the responsibility of the spending unit to monitor vehicle use and take appropriate action when an employee’s use of the vehicle is not in accordance with this rule.

7.1.a. State-owned vehicles may be used or occupied by state employees, non-employees, (such as agency-approved contractors or their agents), or authorized passengers as defined in this rule. No passengers other than state employees, non-employees, and authorized passengers are permitted in vehicles without specific approval of the spending officer.

7.2. A state-owned vehicle may be used for official state business only by either primarily one employee or by multiple employees as a pool vehicle.

7.2.a. Use by primarily one employee.

7.2.a.1. State-owned vehicles may be assigned to an employee whose job duties require continuous access to a vehicle.

7.2.a.2. The driver to which the vehicle is assigned is responsible for recording information that must be reported to the agency fleet coordinator and the Fleet Management Office.

7.2.b. Use by multiple employees as a pool vehicle.

7.2.b.1. When a state-owned vehicle is used by multiple employees, the vehicle must be kept on state-owned or leased property when not in use.

7.2.b.2. Each driver of the pool vehicle is responsible for recording information that must be reported to the agency fleet coordinator and the Fleet Management Office when the driver is using the vehicle.

7.3. State-owned vehicles cannot be used for personal use except for *de minimis* personal use.

7.4. Preventive Maintenance of state-owned vehicles is the responsibility of the spending unit to which the vehicle is assigned. Routine checking of tire pressure, tire wear, as other safety-related equipment is the responsibility of the driver, or in the case of a pool vehicle, the responsibility of the spending unit.

7.4.a. All preventive maintenance costs must be reported to the Fleet Management Office or arranged through the maintenance program provided by the Fleet Management Office.

7.4.b. The cost of repairs or replacement as a result of failure to obtain preventive maintenance on a regular and routine basis is the responsibility of the spending unit to which the vehicle is assigned. The spending unit may seek reimbursement from the driver for misuse or abuse of the state-owned vehicle.

7.4.c. All preventive maintenance, service and safety recalls must follow manufacturers recommendations.

7.5. Routine cleaning and upkeep of the vehicle is the responsibility of the assigned driver, or in the case of a pool vehicle, the responsibility of the spending unit.

7.6. Smoking or the use of e-cigarettes or smokeless tobacco is prohibited in state-owned vehicles. Smoking is prohibited while the driver is refueling the vehicle.

7.7. All state-owned and leased vehicles must have a valid state inspection sticker at all times.

7.8. Insurance coverage is provided for state-owned vehicles by the Board of Risk and Insurance Management. Proof of insurance is provided by the Fleet Management Office. The agency fleet coordinator is responsible for ensuring that proof of insurance is placed in each vehicle.

§148-3-8. Safe Operation.

8.1. The assigned driver or drivers of state-owned vehicles are responsible for the safe operation of the vehicle according to all laws, ordinances and rules governing the operation of any vehicle.

8.2. Whenever a state-owned vehicle is unattended, the driver shall, when practical, turn the vehicle off, remove the keys, close all windows, lock all doors/hatch/trunk/tool boxes, and remove or conceal any valuable items.

8.3. All drivers of state-owned vehicles must have a valid driver's license that is not suspended or revoked.

8.4. The use of a wireless electronic communication device by the driver of a state-owned vehicle is prohibited while the vehicle is in motion, except when the device is a hands-free wireless electronic communication device being used hands-free. The use of a hands-free electronic communication device means to verbally or visually communicate, message, or otherwise exchange information. The use of handheld communication device is permissible according to the provisions of *W.Va. Code §17C-14-15(c)*.

8.5. Hazardous material transported in state-owned vehicles must be kept in a secured container and in accordance with the requirements of the U.S. Department of Transportation Hazardous Materials Regulations found in 49 CFR §172, and with applicable state or local laws and regulations.

8.6. Reporting and review of accidents, damage and violations.

8.6.a. Accidents or any damage to state-owned vehicles must be reported to the Board of Risk and Insurance Management by the spending unit using the designated form as soon as practical after the accident occurs.

8.6.b. The spending unit will take any necessary measures to prevent future accidents, damage or violations such as driver training or employee discipline if the failure of the driver to properly operate and maintain the vehicle is found to be the cause of the accident or damage to the vehicle, or results in a violation.

8.6.c. In the event of an accident or violation, or periodically, to determine operator license status, the Fleet Management Office or spending unit may request and review the driving records of an employee assigned a state-owned vehicle. Any information affecting employability or insurability will be referred to the spending unit for action as appropriate.

§148-3-9. Minimum Utilization.

9.1. To ensure proper utilization and to justify the size of the state's fleet, state-owned vehicles must meet an annual average minimum monthly mileage of 1,100 less any commuting miles.

9.2. For vehicles with an annual average of less than 1,100 miles per month, if the spending unit wishes to retain the vehicle, the spending unit must request a waiver from the minimum mileage required in Subsection 9.1. The request shall be submitted to the Fleet Management Office on the prescribed form. A waiver granted by the Fleet Management Office is valid until the end of the fiscal year, and must be resubmitted by the spending unit annually.

9.3. Requests for waiver of the average minimum monthly mileage will be categorized as follows:

9.3.a. PSV - Vehicles assigned to public safety officers.

9.3.b. SEV - Vehicles assigned to employees whose job duties require the constant use or continuous availability of specialized equipment which cannot feasibly or economically be transferred between a pool vehicle or carried in personal vehicles. Such equipment may include medical supplies, monitoring or testing equipment, or equipment necessary to carry out the mission of the spending unit.

9.3.c. ERV - Vehicles assigned to employees who are on call 24-hours a day, or who must respond to emergencies on a regular or continuing bases where the emergency response is not the employee's regular workplace.

9.3.d. ETV - Vehicles assigned to employees for essential travel related to the transportation of authorized passengers on a routine basis; or for the essential administrative functions of a spending unit for which the use of a temporary assignment vehicle, daily rental vehicle, long-term lease vehicle, or use of a person vehicle with mileage reimbursement is neither feasible or economical.

9.3.e. ENV - Vehicles that are free of lien, and are both economical and necessary for the spending unit to fulfill its necessary functions. No more than 20 percent of the spending unit's vehicles may be granted a waiver under this justification.

9.4. In requesting a waiver from average minimum monthly mileage for vehicles categorized according to 9.3.b. or 9.3.c., the spending unit must report the number of times a vehicle was used annually outside of the employee's regular work schedule.

9.5. The Fleet Management Office will notify the spending unit in writing of its approval or rejection of the request for waiver of average minimum monthly mileage within 15 days of receipt of the request.

9.6. The spending unit may appeal the decision of the Fleet Management Office for request for waiver of average minimum monthly mileage to the Secretary of the Department of

Administration. The appeal must be received by the Secretary within 15 days of receipt of the decision of the Fleet Management Office.

9.7. After a final denial of waiver of average minimum monthly mileage of a state-owned vehicle, or if the spending unit voluntarily surrenders a vehicle that is under-utilized, the Fleet Management Office may recommend an inter-agency transfer of the vehicle to another spending unit, or may recommend transferring the vehicle to the State Agency for Surplus Property for disposition.

9.7.a. In the event of an inter-agency transfer of a vehicle that is not subject to a financing arrangement, the spending unit acquiring the transferred vehicle shall pay to the spending unit transferring the vehicle an amount equal to the expected sale proceeds by the State Agency for Surplus Property at the end of the useful life of the vehicle based upon comparable salvage values obtained by the State Agency for Surplus Property when that agency sells retired vehicles. The payment shall be reduced by an amount equal to the fee that would have been collected by the State Agency for Surplus Property if it were selling the vehicle after retirement. The payment may be waived in whole or in part by the transferring spending unit.

9.7.b. If a vehicle that is subject to a financing arrangement is transferred to another agency because of under-utilization, the spending unit receiving the vehicle will make all remaining payments on the debt obligation of the vehicle after the date of transfer.

9.7.c. For vehicles not subject to a financing arrangement, a new title for the transferred vehicle will be issued with the receiving spending unit as owner.

9.7.d. After the transfer, the receiving spending unit will be responsible for all routine maintenance and operating costs of the vehicle. The spending unit shall input the vehicles identifying information into the centralized inventory database maintained by the Enterprise Resource Planning Board.

9.8. An inter-agency transfer of a state-owned vehicle does not constitute authority of the receiving spending unit to increase its fleet size. The receiving agency must have requested authority to purchase an additional state-owned vehicle to be eligible to receive a vehicle through an inter-agency transfer.

9.9. The transferring spending unit may not replace the transferred vehicle with another vehicle without requesting authority to add another vehicle to its fleet from the Fleet Management Office.

§148-3-10. Commuting in state-owned vehicles.

10.1. State-owned vehicles that are assigned primarily to one employee may be used for commuting to and from the employee's regular workplace so long as the commuting value is calculated and reported as a fringe benefit.

10.2. Commuting value shall be calculated in accordance with Internal Revenue Service Publication 15-B, *Employer's Tax Guide to Fringe Benefits*.

10.3. If an employee has been assigned a vehicle and the vehicle is used to commute to and from the employee's regular workplace during that temporary assignment, commuting value must be calculated and reported for the days the employee used the state-owned vehicle to commute.

10.3.a. The employee assigned to the vehicle is responsible for accurately collecting information needed to calculate the commuting value and reporting to the appropriate person within the spending unit that manages payroll.

10.4. The spending unit shall report the commuting value as wages and salary to the Internal Revenue Service and the State of West Virginia, and shall report the commuting value at least annually to the Fleet Management Office on the prescribed form.

10.5. Failure to submit the prescribed form may result in the termination of the assignment of a vehicle to the employee, will result in a determination by the spending unit business office that miles driven during the unreported period are personal use miles, and may result in applicable penalties levied by the Internal Revenue Service.

148-3-11. State-owned vehicle data required to be reported to the Fleet Management Office.

11.1. Each spending unit with state-owned vehicles shall conduct an annual survey of its fleet and reconcile its vehicle records with those of the Fleet Management Office and with the centralized inventory database maintained by the Enterprise Resource Planning Board.

11.2. Agency fleet coordinators shall provide at least annually, or upon request, to the Fleet Management Office data on each state-owned vehicle, including:

11.2.a. vehicle identification number;

11.2.b. manufacturer, make, model and year of the vehicle;

11.2.c. class or type of each vehicle;

11.2.d. license plate number of each vehicle;

11.2.e. date of acquisition of each vehicle;

11.2.f. vehicle inspection records of each state vehicle;

11.2.g. costs associated with vehicle rental expenses;

11.2.h. reimbursement for personal vehicle use, which shall include total miles and reimbursement rate;

11.2.i. funding source for each vehicle (department number, unit number and fund number);

11.2.j. odometer readings for each state-owned vehicle;

11.2.k. fuel usage of each state-owned vehicle; and

11.2.l. all maintenance events associated with each state-owned vehicle.

11.3. The Fleet Management Office will provide to the Governor and Joint Committee on Government and Finance an annual report of state vehicle usage, including operating cost and number of vehicles.

§148-3-12. Vehicle management programs provided by the Fleet Management Office.

12.1. The Fleet Management Office will offer to spending units vehicle management programs such as fuel purchasing, repairs and maintenance management, towing, and short-term vehicle rentals.

12.2. Fuel purchases.

12.2.a. Fuel purchases made outside fuel program provided by the Fleet Management Office must be reported to the Fleet Management Office on a monthly per-vehicle basis. The mechanism to purchase fuel outside the program provided by the Fleet Management Office must be approved by the Fleet Management Office.

12.2.b. Vehicles enrolled in the fuel program provided by the Fleet Management Office must purchase all third-party fuel through the provided program.

12.2.c. All fuel purchases must be for regular unleaded or diesel, unless a higher grade or other type of fuel is required by the manufacturer. Any exception must be requested in writing by the spending unit, and approved by the Fleet Management Office.

12.3. Repairs and maintenance.

12.3.a. All repairs and maintenance events must be reported and approved by the Fleet Management Office, regardless of whether the vehicle is enrolled in a maintenance management program provided by the Fleet Management Office.

12.3.b. The cost of repairs or replacement as a result of the vehicle not being maintained on a regular and routine basis are the responsibility of the spending unit to which the vehicle is

assigned. It is the discretion of the head of the spending unit to take appropriate action with the vehicle operator.

12.4. Short-term rental pool.

12.4.a. The Fleet Management Office may maintain a pool of vehicles for short-term use by any agency that wishes to use a state vehicle when ownership of a vehicle may not be justifiable.

12.4.b. The Fleet Management Office is authorized to charge rental fees to agencies for use of the short-term rental pool vehicle.

12.5. The Fleet Management Office may collect an administrative fee from spending units for each vehicle assigned to the spending unit to offset the cost of vehicle management programs provided by the Fleet Management Office.

12.5.a. The administrative fee must be approved by the Secretary of the Department of Administration.

12.5.b. The Fleet Management Office may suspend any vehicle management services provided for any spending unit that becomes delinquent more than 90 days in administrative fees due, or for vehicles subject to a financing arrangement, the Fleet Management Office may require the return of the vehicle.

~~1.1. Scope. — This Rule governs all State owned vehicles and aircraft, including the minimal requirements for all state spending units that have a state vehicle and/or aircraft in their possession.~~

~~1.2. Authority. — W.Va. Code §5A-1-2(f) and §5A-3-48.~~

~~1.3. Filing Date. — April 13, 2015~~

~~1.4. Effective Date. — July 1, 2015~~

~~§148-3-2. Definitions.~~

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

~~2.1. — “Authorized passenger” means a personnel classification such as agent, broker, contractor, persons involved in mission of mercy or medical emergency; other personnel not employed by the State of West Virginia who have a connection with or may have an official business relationship with the State; and recipients of health, public safety, and welfare services performed by the State; and who are formally authorized by the spending unit director.~~

~~2.2. — “Carpool Vehicle” means the vehicle is generally used each workday to carry at least three employees to and from work in a spending unit sponsored commuting pool.~~

~~2.3. “Commuting” means an employee who has a state vehicle assigned to them, whether permanently assigned or temporarily assigned, and they drive the vehicle to and from their home and office.~~

~~2.4. “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.~~

~~2.5. “Department” means an entity of the State government, as created by W.Va. Code §5F-1-2.~~

~~2.6. “Department of Administration” means the entity of State government created by W.Va. Code §5F-1-1 et seq.~~

~~2.7. “Fleet Management Office” means the entity within the Department of Administration responsible for the storage, purchase, lease, maintenance and repairs of all State owned vehicles and aircraft.~~

~~2.8. “Hazardous material means materials that are radioactive, flammable, explosive, corrosive, oxidizing, asphyxiating, bio hazardous, toxic pathogenic, or allergenic. Also included are physical conditions such as compressed gases and liquids or hot materials, including all materials that may have other characteristics that render them hazardous in specific circumstances.~~

~~2.9. “Long term vehicle lease” means any vehicle lease agreement where the lease period includes twelve monthly lease periods or one annual period regardless of accounting time frames used, i.e., calendar year or fiscal year.~~

~~2.10. “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.~~

~~2.11. “Official business” means business on behalf of the State of West Virginia.~~

~~2.12. “Operator” means a person to whom a state owned vehicle is assigned.~~

~~2.13. “Public Safety Officer” means any law enforcement officer or emergency responder.~~

~~2.14. “Secretary” means the Secretary of the Department of Administration.~~

~~2.15. “Spending officer” means the executive head of a spending unit, or a person designated by him or her, as defined by W.Va. Code §5A-1-1.~~

~~2.16. “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 Legislature, as defined by W.Va. Code §5A-1-1.~~

~~2.17. “State owned vehicle” means a vehicle owned by the State of West Virginia.~~

~~2.18. “Surplus Property” means the agency within the Department of Administration that disposes of surplus property on behalf of the state.~~

~~2.19. “Use of a wireless communication device” means to verbally or visually converse, message, or otherwise interchange information, including utilization of the internet on a wireless communication device, whether by audio or video communication, telephone, text messaging, or other form of electronic communication.~~

~~2.20. “Vehicle” means any state or agency owned, leased or acquired vehicle regardless of intended use with vehicle rating of one ton (3500/350) or less. *Provided*, that this definition does not apply to all terrain vehicles (ATV) or vehicles requiring a commercial driver’s license to operate. Spending units may request a written determination of applicability from the Department of Administration Fleet Management Office for other special-use equipment that may be eligible for exclusion based on the scope of this paragraph. Factors affecting applicability determination will include the manufacturer’s intended use of the equipment; and any specialty training, certification, or additional licensures required for safe operation.~~

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

~~3.1. Each spending unit, which has a state owned vehicle in their possession, shall designate a spending unit fleet coordinator for the purpose of facilitating communications between the Fleet Management Office and the state spending unit. The spending unit fleet coordinator designation will be made using the designated form, and will include a mechanism for emergency contact outside normal business hours for use by the Department of Administration Fleet Management Office.~~

~~3.2. The Fleet Management Office may prepare and publish policies and procedures necessary to comply with federal and state code, legislative rules, executive orders, resolutions, and regulations or provide clarifying guidance related to fleet management within the State.~~

~~§148-3-4. Titles to State Owned or Long Term Leased Vehicles.~~

~~Vehicles may be titled in the name of the spending unit. The Fleet Management Office will coordinate with spending units to ensure standardized naming. Spending units must provide the Fleet Management Office with a copy of the title and registration. If a spending unit decommissions a vehicle through means other than Surplus Property, a copy of the executed title must be provided to the Fleet Management Office.~~

~~§148-3-5. Leasing of Vehicles—Generally.~~

~~5.1. A vehicle lease may be terminated by the Fleet Management Office for failing to maintain the vehicle; vehicle abuse beyond the intended purpose of the vehicle; or becoming seriously delinquent (more than 90 days).~~

~~5.2. At the discretion of the Fleet Management Office, a vehicle lease may be terminated by the Fleet 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 for official business transportation.~~

~~5.4. All vehicles governed by this rule should meet minimum utilization criteria established by the Fleet Management Office. Justification for each underutilized vehicle will be provided by the assigned Cabinet Secretary using the Fleet Management Office designated form. Utilization criteria will apply to each vehicle individually; consider periods of inactivity; specialized vehicle mission; cost effectiveness; minimum mileage requirements; and the current replacement methodology established by the Fleet Management Office. Minimum utilization criteria will be reviewed by the Fleet Management Office each fiscal year, provided to assigned cabinet secretary, and included in an annual report to the Executive and Legislative branches of State Government.~~

~~5.5 State vehicles shall be licensed with the official state license plate on the rear bumper and display the green state car license plate on the front bumper. *Provided.* Those state vehicles used for the purpose in which it is in the best interest of the State for such vehicles not to be identified as State vehicles, such as vehicles used for law enforcement or similar purposes, pursuant to West Virginia Code §17A-3-23, shall be exempt from this requirement. Additional distinctive vehicle markings may be added at the discretion of the assigned cabinet level Secretary. Other distinctive vehicle markings in lieu of seal or insignia and required lettering, e.g., university copyrighted logo, professionally designed agency marking graphic etc, may be used after review and approval by the Fleet Management Office.~~

~~§148-3-6. Use of State Owned and Leased Vehicles.~~

~~6.1. State owned and leased vehicles may be used or occupied by State employees, non-employees, and/or authorized passengers as defined herein. No passengers other than state employees, non-employees, and/or authorized passengers are permitted in vehicles without the specific approval of the spending officer. It is the responsibility of the spending unit to monitor vehicle use and to take appropriate action when an employee's use is determined to be inappropriate or is not in accordance with this rule.~~

~~6.2. Minimum Mileage Criteria:~~

~~6.2.1. To ensure proper utilization and justify retention in the state fleet, state owned or leased vehicles must be utilized a minimum of 1,100 miles monthly. State spending units must request an exemption for vehicles that are under utilized and the Fleet Management Office shall determine whether the vehicle meets one of the exemptions. At a minimum, the spending units~~

~~shall retrieve the month ending odometer reading of each vehicle and report it in OASIS at the end of every month.~~

~~6.2.2. Request for exemption to the minimum mileage usage for assignment or retention of a vehicle shall be submitted to the Fleet Management Office using the designated Fleet Management Office form. Vehicle exemptions shall be classified by vehicle use:~~

~~6.2.2.a. Vehicles assigned to public safety officers.~~

~~6.2.2.b. Vehicles assigned to employees whose job duties require the constant use or continuous availability of specialized equipment which cannot feasibly or economically be transferred between centralized fleet vehicles or carried in personal vehicles. Such equipment may include medical supplies; monitoring or testing apparatuses or other supplies; equipment or material necessary to perform the spending unit's mission or function.~~

~~6.2.2.c. Vehicles assigned to employees, on 24 hour call, who must respond to emergencies on a regular or continuing basis where the emergency response is normally to a location other than the employee's official workstation.~~

~~6.2.2.d. Vehicles assigned to employees for essential travel related to the transportation of authorized passengers on a routine basis; or for the essential administrative functions of the spending unit for which the use of a temporary assignment vehicle, daily rental vehicle, long-term lease vehicle, or personally owned vehicle using mileage reimbursement is neither feasible nor economical.~~

~~6.2.2.e. Vehicles that are free of lien and in the judgment of the spending officer are both economical and necessary for spending unit mission accomplishment. No more than twenty percent (20%) of the spending unit's vehicles may be exempted using this Exemption Reason Code.~~

~~6.2.3. In addition to submitting a request for exemption for under utilized vehicles, spending units will document the number of occasions annually in which an under utilized vehicle in categories 6.2.2.b and 6.2.2.c was called into service during off hours/after hours. Off hours/after hours means outside the driver's normal hours of duty.~~

~~6.2.4. Fleet Management Office will advise the spending unit as to the approval/disapproval of the request. In cases of disapproval, the spending officer may submit a formal appeal to the Cabinet Secretary of the Department of Administration using the designated Fleet Management Office form.~~

~~6.3. Reassignment of Vehicles Due to Underutilization:~~

~~6.3.1. In cases where spending units cannot justify continued assignment of a vehicle, fleet Management Office will recommend to the spending officer an intra/inter spending unit vehicle transfer or decommissioning of the affected vehicle.~~

~~6.3.2.— Fleet Management Office will advise the spending unit in writing of its recommendation within five (5) days of receipt of the designated Fleet Management Office form.~~

~~6.3.3.— The spending unit may appeal the Fleet Management Office recommendation to the Cabinet Secretary of the Department of Administration. A failed utilization exemption appeal will result in an intra/inter spending unit vehicle transfer or failing attempts over a 30-day period by spending unit to coordinate an intra/inter spending unit vehicle transfer, instruction will be issued by the Fleet Management Office to the spending unit to decommission and retire the affected vehicle. Salvage revenue (minus surplus property fee, if any) for the retired vehicle will be paid to the spending unit that funded the vehicle purchase initially.~~

~~6.3.4.— In cases where an intra/inter spending unit vehicle transfer is successful, the spending unit that receives the transferred vehicle will pay to the spending unit that transfers the transferred vehicle a one-time payment equal to the expected salvage value of the vehicle (minus surplus property fee, if any) unless waived or reduced by the losing spending unit. Payment, if appropriate, to the losing spending unit will be concurrent to the transfer date of the vehicle to the gaining spending unit. Upon decommissioning and retirement, any future salvage revenue will be paid to the gaining spending unit.~~

~~6.3.5.— Upon transfer, the gaining spending unit will become responsible for expenses associated with the vehicle, e.g., fuel, insurance, maintenance, repair, and prevailing monthly Fleet Management Office administrative fee, etc.~~

~~6.3.6.— An intra/inter spending unit transfer does not constitute authority to increase fleet size. Request to increase fleet size will be made by the gaining spending unit using the designated Fleet Management Office form.~~

~~6.3.7.— In all cases, the transfer or retirement of an underutilized vehicle will be tracked by the Fleet Management Office and may not be used by the losing spending unit to offset a future Fleet Management Office authorized purchase without a Fleet Management Office approval to increase fleet size.~~

~~§148 3 7. Insurance Coverage.~~

~~Insurance is provided for vehicles by the State Board of Risk and Insurance Management.~~

~~§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.~~

~~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, 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 Unattended Vehicle.~~

~~Whenever a vehicle is left unattended, the operator shall, when practical, 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 passengers must use safety belts when the vehicle is in operation.~~

~~8.4. Driver's License Required.~~

~~All operators must have a valid operator's (driver's) license in good standing.~~

~~8.5. Use of Wireless Electronic Communication Devices.~~

~~The use of a wireless electronic communication device by the operator of a moving vehicle on a public road or highway is prohibited except when the wireless communication device is a hands free wireless electronic communication device being used hands free. See W.Va. §17C-14-15 for additional guidance and exceptions related to the use of two way radio communications.~~

~~8.6. Smoking or use of smokeless tobacco is prohibited in state owned and leased vehicles.~~

~~8.7. Hazardous material transported in a state owned or leased vehicle must be kept in a secured container in accordance with CFR 49, Subpart B, Requirements and applicable state standards or regulations.~~

~~8.7.1 Packages secured in a motor vehicle. Any package containing any hazardous material, not permanently attached to a motor vehicle, must be secured against shifting, including relative motion between packages, within the vehicle on which it is being transported, under conditions normally incident to transportation. Packages having valves or other fittings must be loaded in a manner to minimize the likelihood of damage during transportation.~~

~~8.7.2 Each package containing a hazardous material bearing package orientation markings prescribed in CFR 49 §172.312 must be loaded on a transport vehicle or within a freight container in accordance with such markings and must remain in the correct position indicated by the markings during transportation.~~

~~8.7.3. No smoking while loading or unloading. Smoking on or about any motor vehicle~~

~~while loading or unloading any Class 1 (explosive), Class 3 (flammable liquid), Class 4 (flammable solid), Class 5 (oxidizing), or Division 2.1 (flammable gas) materials is forbidden.~~

~~8.7.4 Keep fire away, loading and unloading. Extreme care shall be taken in the loading or unloading of any Class 1 (explosive), Class 3 (flammable liquid), Class 4 (flammable solid), Class 5 (oxidizing), or Division 2.1 (flammable gas) materials into or from any motor vehicle to keep fire away and to prevent persons in the vicinity from smoking, lighting matches, or carrying any flame or lighted cigar, pipe, or cigarette.~~

~~8.7.5 Handbrake set while loading and unloading. No hazardous material shall be loaded into or on, or unloaded from, any motor vehicle unless the handbrake is securely set and all other reasonable precautions are taken to prevent motion of the motor vehicle during the loading or unloading process.~~

~~8.7.6 Use of tools, loading and unloading. No tools which are likely to damage the effectiveness of the closure of any package or other container, or likely adversely to affect such package or container, shall be used for the loading or unloading of any Class 1 (explosive) material or other dangerous article.~~

~~8.8. Confidentially plated vehicles may be excluded, at the discretion of the spending unit, from any automated fleet management program. *Provided:* Information necessary to accurately report the vehicle for asset management purposes, such as vehicle class, model year, drive type, in-service date, and odometer reading as well as vehicle commuting status for fringe benefit reporting purposes will be provided by the fifth working day of each month by the spending unit using the Fleet Management Office designated form.~~

~~§148 3 9. Permissible Uses.~~

~~9.1. Generally.~~

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

~~9.1.1. Use by multiple employees; or~~

~~9.1.2. Use by primarily one (1) employee.~~

~~9.2. Use by Multiple Employees.~~

~~When a State owned vehicle is owned or leased for use by multiple employees, the vehicle must be kept on State owned property or property leased by the State when not in use. Exceptions may be granted by the Fleet Management Office for spending unit sponsored commuting carpool vehicles where State owned or leased property is not available.~~

~~9.3. Use by Primarily One Employee.~~

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

~~9.3.1. is assigned to an employee that has been required by 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 minimis personal use as allowed by the Internal Revenue Service (IRS) Publication 15-B, *Employer's Tax Guide to Fringe Benefits*, published under U.S. Code Title 26; and~~

~~9.3.3. is assigned to an employee that authorizes a monthly payroll deduction for the commuting value; completes a designated "Statement of Commuting Value"; or participates in a web enabled, secure fringe benefit reporting application provided by the Fleet Management Office at no cost to the employee.~~

~~9.4. Determining Commuting Value~~

~~9.4.1. Commuting value shall be determined in accordance with the Internal Revenue Service (IRS) Publication 15-B, *Employer's Tax Guide to Fringe Benefits*, published under U.S. Code Title 26.~~

~~9.4.2. If an employee has been assigned a vehicle 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 a copy of the designated spending unit monthly report to substantiate and document vehicle use and remain in compliance with the IRS Publication 15-B, *Employer's Tax Guide to Fringe Benefits*, published under U.S. Code Title 26.~~

~~9.4.3. A designated spending unit report must be completed by the employee for each month in which the employee has been assigned a State owned vehicle or leased vehicle for periods of one day or more and has used the vehicle for commuting. The designated spending unit report must be submitted by the employee to the employee's spending unit business office within ten (10) business days from the last day of the reporting month. Failure to submit the designated form may result in the termination of the assignment of a vehicle to the employee; will result in a determination by the spending unit business office that miles driven during the unreported period are personal use miles; as well as any applicable penalties levied by the Department of Treasury, Internal Revenue Service of the Federal Government.~~

~~§148 3-10. Long term Leasing and/or Purchasing Vehicles.~~

~~10.1. Any long term vehicle lease must first be approved by the Fleet Management Office. Any vehicle purchase must first be reviewed by the Fleet Management Office.~~

~~Regardless of vehicle acquisition method, spending units shall not increase their fleet size without prior notification and approval by the Fleet Management Office. A designated form will~~

~~be processed by the Fleet Management Office with response provided to spending unit within five (5) business days from receipt of the designated form by the Fleet Management Office.~~

~~10.2. Leasing and/or Purchasing Non Fleet Management Vehicles.~~

~~The Fleet Management Office may authorize the long term lease and/or purchase of vehicles by spending units from entities other than the Fleet Management Office, with the spending unit to operate and maintain the vehicles and to assume the responsibility for all vehicle-related expenses. Non Fleet Management vehicles will be included in the State's centralized fleet management program administered by the Fleet Management Office and remain subject to standard administrative fees.~~

~~10.3. Leasing and/or Purchasing Fleet Management Office Vehicles.~~

~~Upon request by spending units, the Fleet Management Office may purchase for and subsequently lease vehicles to spending units upon the established terms and conditions and at the rates specified by the Fleet Management Office. The Fleet 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 decommissioning, 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 Fleet Management Office in conjunction with State Surplus Property.~~

~~10.4. Requirements for Leasing.~~

~~A spending unit desiring to lease a vehicle from the Fleet Management Office will submit a written request in the form designated by the Fleet Management Office. The determination of whether to approve the request to lease a vehicle from the Fleet 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 Fleet Management Office.~~

~~10.5. Fleet Management Programs~~

~~Fleet Management Programs available for the use with state owned and leased vehicles shall be used for vehicle related expenses such as fuel purchases, repairs, maintenance, towing charges, etc. Spending units are required to review and document drivers' understanding of Fleet~~

~~Management Programs no later than the 15th of January each calendar year using the designated form.~~

~~Any purchase not made via the fuel card, preventive maintenance coupon sheets (or equivalent), or vendor service 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 Fleet 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 or other type of fuel is required by the manufacturer, requested in writing by the spending officer, and approved by the Fleet Management Office. Any exception to the fuel purchases must be approved in advance by the Fleet Management Office. Fuel purchases made in violation of this section 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. 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. All preventative maintenance, service and safety recalls must follow manufacturers recommendations. All repairs must be reported and approved by the Fleet Management Office or by a Fleet Management Office program. 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.~~

~~All state owned and leased vehicles must have a valid state inspection sticker at all times.~~

~~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 operator.~~

~~10.9. Reporting and Review of Accidents, Damage and Violations.~~

~~10.9.1 Accidents and damage to vehicles must be reported to the Board of Risk and Insurance Management by the spending unit using their designated form on the day of the accident if practical or the next business day if it is impractical to report the accident. The spending officer must provide to the Board of Risk and Insurance Management an accident report with sufficient detail to determine the circumstances of the accident.~~

~~10.9.2. The spending unit shall determine the root cause of any accident, damage to State owned vehicles, and/or driver violation(s). Once identified, the spending unit will take measures as may be necessary to prevent a similar accident, damage or driver violation(s) from reoccurring in the future. These measures may require such actions as driver training, spending unit policy revision, and/or employee discipline as required by the Board of Risk and Insurance Management.~~

~~10.9.3. In the event of an accident, violation, or periodically to determine operator license status, the Department of Administration Fleet Management Office, or spending unit may request and review driving record/s. Information affecting employability or insurability will be referred to the spending unit for action as appropriate.~~

~~10.10. Fleet Management Office Charges.~~

~~10.10.1 The Fleet Management Office shall issue regular invoices to spending units for vehicle leases and services.~~

~~10.10.2 A monthly administrative fee shall be assessed for every state owned and/or leased vehicles as determined by the Fleet Management Office and approved by the Cabinet Secretary.~~

~~10.10.3. The administrative fee will ensure adequate funding to support personnel salaries, direct and indirect costs, and provide for future fleet related initiatives which are intended to improve fleet operations and increase cost savings within state spending units.~~

~~10.11. Arrearages.~~

~~Any spending unit account that becomes delinquent more than ninety (90) days in paying the Department of Administration or designated vehicle services contractor fees may have services provided by the Fleet Management Office suspended or may be required to return the leased vehicle to the Fleet Management Office.~~