



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF AN EMERGENCY RULE

AGENCY: Administration TITLE-SERIES: 148-23
RULE TYPE: Legislative Amendment to Existing Rule: No
RULE NAME: Exemptions from Management Services Provided
by the Fleet Management Division

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

§5A-12-9

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

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THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE SECRETARY OF STATE OR THE 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

W.Va. Code §5A-12-9 provides that any spending unit seeking an exemption from the management services provided by the Fleet Management Division (FMD) shall request such exemption. The requests are reviewed by the Director of FMD and approved by the Secretary. After the passage of §5A-12-9 during the 2018 Regular Session, FMD developed a sample report for agencies seeking an exemption to complete, and required those requests to be submitted for review. After analysis of the sample reports, FMD developed a list of those agencies that demonstrated the ability to report on an annual basis information required by Article 12.

DOES THIS EMERGENCY RULE REPEAL A CURRENT RULE? No

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND OR EXPIRED? No

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON THE STATE OR ITS RESIDENTS:

None

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jennelle H Jones--By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 148
LEGISLATIVE RULE
DEPARTMENT OF ADMINISTRATION

SERIES 23
EXEMPTIONS FROM MANAGEMENT SERVICES PROVIDED BY THE FLEET
MANAGEMENT DIVISION

§148-23-1. General.

1.1. Scope. -- This legislative rule relates to state agency exemptions from utilizing vehicle management services provided for state-owned vehicles under the oversight of the Fleet Management Division. The rule provides the standard for granting an exemption by the Secretary of the Department of Administration, lists those agencies that have been granted exemptions, and provides for future review of requests for exemptions from the use of vehicle management services provided by the Fleet Management Division.

1.2. Authority. – W.Va. Code §5A-12-9.

1.3. Filing Date. –

1.4. Effective Date. –

1.5. Sunset provision. – This rule shall terminate and have no further force or effect five years from the Effective Date.

§148-23-2. Definitions

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

2.1 “Secretary” means the Secretary of the Department of Administration.

§148-23-3. Standard for evaluating requests for exemption from vehicle management services.

3.1. Currently, the Fleet Management Division provides fuel-purchase services and vehicle maintenance management services for state-owned vehicles under oversight of the Fleet Management Office.

3.2. In order for the Secretary to consider an exemption to use of vehicle management services provided by the Fleet Management Division, the requesting agency must have in-house or established ready availability or access to the same services as those provided by the Fleet Management Division.

3.2.a. An example of established or in-house ready availability or access to fuel service would be an agency that is already purchasing fuel for use in state-owned vehicles in bulk.

3.2.b. An example of established or in-house ready availability or access to maintenance services would be an agency that has an existing and functional garage and employees capable of performing routine maintenance on other state-owned vehicles.

3.3. In addition to having established or in-house ready availability or access to services that would otherwise be provided through the management services offered by the Fleet Management Division, the agency requesting an exemption from the utilization of those provided services must demonstrate the ability to calculate and report the comprehensive annual costs of operation on a per vehicle basis, including total fuel purchased and used by each vehicle and a total cost of maintenance for each vehicle.

3.4. Agencies may request, and the Secretary may grant, an exemption from all or only one of the vehicle management services provided by the Fleet Management Division. If an agency is granted an exemption from only one of the services offered, that agency shall utilize the remaining services offered by the Fleet Management Division.

§148-23-4. Agencies granted exemptions from utilizing vehicle management services provided by the Fleet Management Division.

4.1. The following agencies have been granted exemptions from using both fuel and maintenance management services:

4.1.a. West Virginia Division of Highways

4.1.b. West Virginia Parkways Authority

4.1.c. West Virginia Division of Natural Resources/Parks and Recreation

4.2. The following agencies have been granted partial exemptions from one of the vehicle management services provided by the Fleet Management Division:

4.2.a. West Virginia Courtesy Patrol from maintenance management services

4.2.b. West Virginia State Police from maintenance management services

4.2.c. West Virginia State Rail Authority from maintenance management services

4.3. Agencies that have been granted an exemption from utilization of the management services provided may elect to use those services at any time. Those agencies electing to use one of the vehicle management services provided by the Fleet Management Division shall notify the Division before utilizing the service.

§148-23-5. Future requests by agencies and review by Secretary for exemptions from utilization of the vehicle management services provided by the Fleet Management Division.

5.1. Should circumstances change that would allow an agency to have ready availability or access to established or in-house services that would otherwise be provided by the Fleet Management Division, agencies may submit a request for exemption once per year by June 30th.

5.2. The Secretary shall review the recommendations of the Director of the Fleet Management Division in the same manner as prescribed by W.Va. Code §5A-12-9 and shall propose amendments to this rule to reflect any change in status of agencies requesting an exemption.