



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/8/2019 11:33:15 AM

Office of West Virginia
Secretary Of State

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

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

PRIMARY CONTACT

NAME: Misty Peal
ADDRESS: Building 1 Room E 119
1900 Kanawha Blvd East
Charleston, WV 25305
EMAIL: misty.peal@wv.gov
PHONE NUMBER: 304-558-4331

CITE STATUTORY AUTHORITY: W.Va. Code 5A-12-9

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W.Va. Code § 5A-12-9 requires the division to submit a "legislative rule identifying each spending unit for which an exemption has been approved, which rule shall further state the nature of the proposed exemption, and which services will be used, as well as the manner in which the spending unit will comply with all other requirements of this article, including the requirements to report certain information to the division: Provided, That no request for exemption pursuant to this section shall become effective without the enactment of a legislative rule pursuant to the provisions of §29A-3-1 et seq. of this code."

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 5/3/2019

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 6/3/2019

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

None

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

The rule relates to state agency exemption from utilizing vehicle management services 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 Administration, lists the agencies that have been granted exemptions, and provides for future review of exemption requests.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The rule is filed pursuant to H.B. 4015, enacted by the 2019 Regular Legislative Session. The bill required implementation of an inventory system to track state-owned vehicles and a means to review utilization of those vehicles, allowing certain agencies to request exemption from certain management services provided by the Fleet Management Division. The rule implements the process for exemption from those services, which is permitted under W.Va. Code § 5A-12-9.

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 OF THE LEGISLATIVE RULE 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	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

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

The Fleet Management Division does not anticipate an increase in costs based on adoption of this rule. The goal of the rule is to ultimately save costs through the use of the Fleet Management Division services, or by ensuring better management of utilization by the agency.

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

Yes
Misty Peal -- 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.