

**State of Delaware
Fleet Services**

OPERATING POLICIES AND PROCEDURES

CATEGORY: VEHICLE OPERATION	DATE ISSUED: 02-06-09 REVISED: REVIEWED: 3-1-19	EFFECTIVE DATE 02-06-09	POLICY NO: VO-19
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I. Authority

This Policy is adopted pursuant to 29 Del. C., §7106 of the Delaware Code, which directs the Director of the Office of Management and Budget to promulgate a policy concerning exemptions to 29 Del. C., §7106(a) & (b) and limits the use of state-owned vehicles. The Policy defines limited exemptions which, (1) allows Control Employees and Non-Control Employees to drive a state-owned vehicle for incidental personal use during Prescribed Working Hours, (2) allows Control Employees and Non-Control Employees to park a state-owned vehicle at their residences, and (3) allows certain state-owned vehicles to be parked at locations other than the state agency, school district office or motor pool location to which the vehicle is otherwise assigned.

II. Purpose and Rationale

A. Control Employee

This Policy, which is congruent with PHRST Policy PRU-VEH-01, designates certain employees for the above-referenced exceptions and sets forth the basis for the exemptions. It also establishes a process by which requests for the designation of “Control Employee” as defined by Internal Revenue Service Regulations will be considered.

B. All Employees:

The Policy allows certain employees and vehicles to qualify for an exemption on a limited basis without regard to whether the use is for a Control Employee. For example, vehicles may be parked away from the agency or motor pool site to which they are normally assigned for security and safety reasons. The Policy also allows for the Director to permit, on a daily basis, state employees to park a state-owned vehicle at a location other than a state agency, school district office or motor pool location.

III. Definitions

For purpose of this Policy the following definitions shall apply:

1. “Auxiliary Use” means (1) the driving of a state-owned vehicle within the State of Delaware, including to and from the employee’s residence, for incidental personal benefit during Prescribed Working Hours or (2) the parking of a state-owned vehicle at locations within the State of Delaware other than at the assigned motor pool, agency site or school district office where such would not, absent this Policy, be permitted. Auxiliary Use includes the driving of a state-owned vehicle for reasonable distances, and/or the parking of a state-owned vehicle for reasonable time periods, for the convenience of the employee, consistent with the purposes set forth above. Auxiliary Use includes the carrying of passengers who are not state employees only to or from an employee’s residence, and only if such passengers are members of such Control Employee’s immediate family, as defined in Chapter 2.0000 of the state’s Merit Rules.

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2. “Cabinet Secretary or Agency Head” means a member of the Governor’s cabinet.
3. “Exemption” means the exemption referenced in 29 Del. C., §7106(c).
4. “Control Employee” means any employee who meets the definition of the Internal Revenue Service regulations found in IRS Publication 15-B, page 24. The publication may be accessed at <http://www.irs.gov/pub/irs-pdf/p15b.pdf>
5. “Policy” means this policy titled “ACCEPTABLE VEHICLE USE POLICY & EXEMPTIONS”
6. “Prescribed Working Hours” means any time during which an employee is acting on behalf of the state as part of his/her job function whether or not during regular working hours. For example, travel to or from an evening meeting would be during Prescribed Working Hours.
7. “Director” means the Director of the Office of Management and Budget of the State of Delaware.

IV. Exemptions

A. Control Employee Exemptions

A Control Employee is allowed to use a state-owned vehicle for Auxiliary Use provided that his or her work-related business activities or an emergency warrants the regular assignment of a state-owned vehicle to such Control Employee and said employee has received authorization from the Director of the Office of Management and Budget. The Director or his/her designee shall make such assignments in a manner that takes into account the purpose/rationale of this Policy and meets the requirements of critical need/cost justification as outlined in Section IV. C. of this policy.

1. Designations of Control Employees

The Director may designate, on a case-by-case basis, any employee of the State of Delaware as “Control Employee” for purposes of this policy upon application and a showing that circumstances warrant such designation. Ordinarily the application will be originated by the Governor’s Office or Cabinet Secretary. Such application shall include information requested by the Director explaining how such designation would serve the purposes of the policy and must be approved by the head of the affected agency. The Director has the authority to re-evaluate the designation of “Control Employee” and all other exemptions contained in the policy at any time.

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B. Other Exemptions

Employees, other than Control Employees, may utilize a state-owned vehicle for Auxiliary Use under this Policy for any of the following reasons:

1. The Director determines on a case-by-case basis that a vehicle would not be secure unless an exemption is utilized and the conditions of Section IV. C. of this policy are met.
2. For the period of time an employee is on “stand-by” duty under Merit Rule 5.1440 and meets the conditions of Section IV. C. of this policy.
3. There are other compelling circumstances that in the judgment of the Director warrant utilization of the exemption consistent with Section IV. C. of this policy.

C. Defining Critical Need and Cost Justification of Commuting

Agencies will be required to provide evidence that the assignment of a vehicle to drive to and from their duty station meets or exceeds the standards or situations as follows:

1. The employee is on paid stand-by on-call status and is expected to personally respond to emergencies of situations. Evidence must be provided that the employee is called out on a regular basis (more than once per month) and is not part of a rotational call back situation. The requesting agency will provide the area, zone or county to which the employees are to respond and provide evidence of that need. Whenever there are assigned multiple vehicles and employees in an area zone or county, it must be demonstrated these apparent redundant assignments are mission critical. It should be also demonstrated that the state owned vehicle is critical for the response.
2. A limited approval can be granted for situations where the employee is in a rotational stand-by on-call status, the vehicle is equipped with tools or equipment necessary to meet the emergency situations and a rapid response is required where it can be demonstrated a slow response would negatively impact the public, involve a life threatening situation or result in a significant loss of property.
3. A public policy or task force recommendation dictates that to enhance response to a potential crisis a specific and limited number of critical staff members are granted authorization to commute in a state vehicle. It must be demonstrated that a response could be significantly delayed by not having an assigned vehicle which would negatively impact the public, involve a life threatening situation or result in a significant loss of property. Each responder’s role must demonstrate they are a first on scene emergency responder and not a supporting team member who could first obtain a vehicle from the employee’s duty station prior to responding to the scene of an event.

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4. The assignment of a vehicle and permission to commute meets a critical mission or business need that cannot be achieved in any other way. Agencies will be required to provide evidence that all alternatives have been investigated and proven not to be cost effective. It must be demonstrated that the assignment and commuting provides a reasonable return on investment, offsetting the additional costs of allowing the employee to commute.

D. Director's Authority Reserved

In granting an exemption under this Policy, the Director may place additional restrictions upon the Auxiliary Use of any state-owned vehicle. In addition, the Director may, at his/her discretion, revoke any exemption granted pursuant to this Policy, should the Director become aware of unauthorized use of any state-owned vehicle by a Control Employee, or other employee exempted under this Policy. Approved exemptions will be effective commencing January 1 and expire December 31 of each year. Requests for the next year shall be submitted on November 1 to allow time for review and re-approval.

E. Exemption Not Required

No exemption is required to drive a state-owned vehicle for state business purposes during Prescribed Working Hours.