

# Motor Vehicle Review Committee



June 10, 2008

## MINUTES

### Motor Vehicle Review Committee Members in attendance:

Doug Richins, Substitute Chair  
Dennis Carver  
Robin Erickson  
Scott Harding  
Doug McCleve  
Steve McCarthy

### Fleet Operations and Guests in attendance:

Margaret Chambers	Division of Fleet and Surplus Services
Sam Lee	Division of Fleet and Surplus Services
Amanda Ronan	Division of Fleet and Surplus Services
Cerena Crosby	Division of Fleet and Surplus Services
Shawn Hess	Division of Fleet and Surplus Services
Chante King	Division of Fleet and Surplus Services
Jeff Done	Division of Fleet and Surplus Services
Gala Dumas	Division of Fleet and Surplus Services
Judy Wilkins	Department of Technology Services
Sal Petilos	Department of Administrative Services
Dave Rees	University of Utah
Tiffany Harms	Tax Commission
Steven Hewlett	Division of Risk Management
Ed Benson	Salt Lake Community College
Teresa Druce	Salt Lake Community College

On Tuesday, June 10, 2008 the Motor Vehicle Review Committee held their regularly scheduled meeting in Room 450 of the State Capitol, Salt Lake City, Utah. Substitute Chair Doug Richins called the meeting to order at 10:08 a.m.

## **1. Approval of Minutes for March 10, 2008**

Substitute Chair Richins asked if there were any corrections that needed to be made to the minutes.

**MOTION:** Doug McCleve moved to approve the minutes from March 10, 2008. Robin Erickson seconded the motion.

The motion passed unanimously.

## **2. Compliance and Customer Service Roles**

Margaret Chambers spoke about Statute 63A-9-401(1) which clarifies the roles for the Division of Fleet and Surplus services as both a compliance and customer service agency. The role of compliance was emphasized by an audit done by the Legislative Auditor General's office in 2005 where they made the following statement:

The Utah Code provides DFO with adequate authority to provide the controls and accountability to effectively manage the state fleet. Utah code 63A-9-401(1) states that the division shall perform all administrative duties and functions related to management of state vehicles. DFO has focused on both providing customer service and giving state agencies the tools to manage state vehicles that agencies lease or own. However, DFO needs to be more assertively require agency accountability while providing customer service to effectively manage the state fleet.

Margaret Chambers then stated that she wanted the Committee to know that when they are giving advice to Fleet Operations to understand that we do have two roles.

## **3. Take Home Trip Log**

Sam Lee explained that during the December 10, 2007 meeting the committee approved changes to Administrative Rule R27-3-7(2) The trip log must be created for the first and last trip of the day for all take-home vehicles. We are proposing to add *Trip log data for the first and last trip of the day must be documented by the agency at least monthly in the DFO fleet information system.* The question we are asking you is where the information should be stored. Should it be stored with the Agency or with Fleet Operations?

Robin Erikson stated it should all be one central location and it should be done weekly instead of monthly. It would be easier to get the data if it is requested.

Margaret Chambers stated that we are requesting with the rule change to have it put into the Fleet Operations system.

Dennis Carver stated they have an accounting system that tracks the mileage because they have to report federal mileage, etc. He does not think there is a reason to keep the daily log to track mileage usage.

Margaret Chambers offered to interface with any systems agencies currently have to track the take-home mileage log.

Steve McCarthy asked if GPS would become the trip log. Margaret Chambers stated yes it would if we go forward with telematics. Steve McCarthy then stated trip logs are only as good as the people who create them.

Margaret Chambers stated that when questions come in from the Legislature, the Auditor General, and the Fiscal Analyst they come to Fleet Operations for the data. We want to have the minimum requirements in place.

Doug Richins stated that as Margaret Chambers stated Fleet Operations brought this rule change to us back in December of 2007 and the MVRC approved to change the rule to log the first and last trip of the day. There may be a threshold issue for the MVRC to change the rule that was approved in December.

Robin Erickson stated the spreadsheet is needed. Once the employees find out that you are not policing them, but just collecting the data you should also see fuel savings. First and last is the bare minimum. Electronic is not difficult to do.

**MOTION:** Robin Erickson motioned to add Trip log data for the first and last trip of the day must be documented in the DFO fleet information system at least monthly. This is an amendment to Administrative Rule R27-3-7(2). To take place within 45 to 60 days.

Motion failed to receive a second.

**MOTION:** Dennis Carver motioned to have Fleet Operations look at the issue of non-compliance with the current rules in place to establish commute. The issue should be to go after those who are not complying with those rules.

Sam Lee stated that is not the concern stated today. The concern today is how the first and last trip of the day will be documented.

Motion failed to receive a second.

Robin Erikson stated we are not solving the issue. We need to come up with something that is workable and hear from those who have not spoken up.

Margaret Chambers stated that her frustration was that now we have a rule that states you must keep a trip log for the first and last trip of the day, but we do not have any way to enforce the rule since we do not know if it is being done or not. Fleet will now have to go to each agency to find out how they are tracking the trip logs. It would be better to take the trip log out of the rule then leave it in there with nothing to enforce it.

**MOTION:** Scott Harding motioned to move on to the next item on the agenda.

#### **4. Expanding the study of telematics in State vehicles**

Sam Lee stated we are changing how we are referring to the study. We are no longer calling it GPS since it covers more than just GPS. We are now going to refer to it as telematics. Telematics is the integrated use of telecommunications and informatics, also known as ICT (Information and Communications Technology). More specifically it is the science of sending, receiving, and storing information via telecommunication devices. I just want to clarify that in the past we referred to this technology as GPS but from this point on we will be referring to it as telematics.

Sam Lee stated we would like to purchase an additional 25 units during FY09 and work with UDOT vehicles for the study. The drivers will know they have a telematics unit in the vehicle. We will report to the agency all units which are traveling more than 20 mph over the speed limit and all units traveling over 90 mph. Personal use will be reported as a complaint like it is from a citizen. Our goal is to determine whether to move forward with telematics or is the cost greater than the return.

Doug Richins asked if the goals could be more expansive than just the cost savings. Wouldn't it also provide a management tool for the agency? Shouldn't that also be a goal? Sam Lee stated he kept the goal to cost savings since that is what will determine whether or not we move forward with telematics in state vehicles.

**MOTION:** Doug McCleve motioned to support the pilot as Fleet Operations recommended and to allow those agencies who wish to be part of the pilot to be added on at Fleet Operations discretion. Motion seconded by Steve McCarthy.

Motion passed unanimously.

#### **5. Driver Eligibility Update**

Sam Lee stated Fleet Operations has been working with Brian Nelson with Risk Management on this issue. Our recommendation is to change Administrative Rule R27-7 to accommodate the addition Driver Eligibility Board. At the last meeting we had a discussion on driver eligibility; we are now coming back to you with the changes requested. Sam Lee went over the changes to Administrative Rule R27-7

Dennis Carver asked if Fleet Operations has checked with the Attorney General's office to see if there is a legal issue with an employee having a valid license, but has one of the violations from section 3c and the Driver Eligibility Board revokes their driving privileges and they lose their job because of it. Sam Lee stated the Driver Eligibility Board does not have the ability to make a determination about employment only the employee right to drive a state vehicle. In many cases that would lead to the termination of an employee. Our authority does not extend to their state employment just their driving status. Sam Lee stated Fleet Operations will check with their attorney.

Dennis Carver recommended postponing any action until the next meeting. There is a lot of information to review before deciding on whether or not to approve the changes.

Robin Erikson stated to help the employee out and put them on a probationary period before they reach the point that they make it to the Driver Eligibility Board.

Sal Petilos asked what happened to the value based preventable accidents being used instead of just the number of preventable accidents. Sam Lee stated there is a point system he is working on for the Driver Eligibility Board to use.

**MOTION:** Steve McCarthy motioned to adopt the changes to Administrative Rule R27-7 as presented by Fleet Operations. Robin Erikson seconded the motion.

**SUBSTITUTE MOTION:** Dennis Carver motioned to adjourn.

Substitute Motion failed to pass. Doug Richins, Steve McCarthy, Robin Erikson, Scott Harding, and Doug McCleve all objected to the motion.

**SUBSTITUTE MOTION:** Doug McCleve motioned to add a representative from the employee's agency to R27-7-7(1). It would now read The Driver Eligibility Board shall have at least 4 voting members. Members of the Board shall include a representative from the Division of Risk Management, the Division of Fleet Operations, the Department of Human Resource Management, and a representative of the employee's agency. Each member of the Board will be assigned by the Executive Director of the Department of Administrative Services. Motion seconded by Steve McCarthy.

Substitute Motion passed unanimously.

Dennis Carver asked who was going to determine on 3e that there was abuse. Sam Lee stated that he was intending it to be through the complaint process or the Fleet Manager.

**SUBSTITUE MOTION:** Steve McCarthy motioned to add as validated by the agency to the end of 3e. 3e would now read for the unauthorized use, misuse, abuse or neglect of a state vehicle as validated by the agency;. Motion seconded by Doug McCleve.

Substitute Motion passed unanimously.

Motion passed with Dennis Carver being opposed.

**MOTION:** Doug McCleve motioned to adjourn.

Motion passed unanimously  
Committee adjourned at 12:34 p.m.

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Attachment: Rule R27-7 as approved by the Committee

**R27. Administrative Services, Fleet Operations.**

**R27-7. Safety and Loss Prevention of State Vehicles.**

**R27-7-1. Authority.**

(1) This rule is established pursuant to Subsection 63A-9-401(1)(d)(iii) [~~63A-9-401(1)(e)(iii)~~] which requires the Division of Fleet Operations (DFO) to make rules establishing requirements for fleet safety and loss prevention programs.

**R27-7-2. Accident Reporting and Liability.**

(1) In the event of an accident involving a state vehicle, either the driver of the vehicle or the employing agency shall notify DFO, the Division of Risk Management, and the agency's management, within 24 hours of the occurrence of the accident [~~7 DFO, Risk Management and the agency's management~~].

**R27-7-3. Driver Eligibility [~~Loss of Authority~~] to Operate a State Vehicle.**

(1) The authority to operate a state vehicle is subject to withdrawal, suspension or revocation.

(2) The authority to operate a state vehicle shall be automatically withdrawn, suspended or revoked in the event that an authorized driver's license is not in a valid status. [~~denied, cancelled, disqualified, suspended or revoked.~~]

(a) The authority to operate a state vehicle shall, at a minimum, be withdrawn, suspended or revoked for the period of denial, cancellation, disqualification, suspension or revocation of the authorized driver's license.

(b) The authority to operate a state vehicle shall not be reinstated until such time as the individual provides proof that his or her driver license has been reinstated or DFO verifies the license has been reinstated.

~~[(c) The employing agency may petition the Driving Privilege Review Board (DPRB) to extend the period for which the authority to operate a state vehicle is withdrawn, suspended or revoked beyond the period for which the authorized driver's license is denied, cancelled, disqualified, suspended or revoked.]~~

~~[(d) The DPRB may extend the period for which the authority to operate a state vehicle is withdrawn, suspended or revoked, beyond the period for which the driver's license is denied, cancelled, disqualified, suspended, if the evidence regarding the circumstances surrounding the denial, cancellation, disqualification, suspension or revocation of the authorized driver's license and driving history indicates that it is in the best interest of the state to extend the period for which the authority to operate a state vehicle is withdrawn, suspended or revoked.]~~

(3) The authority to operate a state vehicle shall be suspended or revoked for up to three years by the Driver Eligibility Board for any of the following reasons [~~grounds~~]:

(a) The authorized driver, while acting within the scope of employment, has been involved in 3 or more preventable accidents during a three (3) [~~five (5)~~] year period; or

(b) The authorized driver has 4 or more moving violations within a 12 month period [~~while acting within the scope of~~]

~~employment, has received 5 or more citations for violating motor vehicle laws during a five (5) year period]; or~~

(c) The authorized driver, has been convicted of any of the following Utah "ACD" codes:

(i) A33 - Violation of controlled substance laws; or

(ii) B23 - Driving while denied ; or

(iii) B25 - Driving on revocation; or

(iv) B26 - Driving while suspended; or

(v) M84 - Reckless driving ; or

(vi) S95 - Speed contest(racing) on road open to traffic prior to 5/1/2006; or

(vii) S95 - Speed contest (racing)(1st 60 days-2ndw/I 3 yrs 90 days); or

(viii) U01 - Fleeing or evading police or roadblock; or

(ix) U05 - Using a motor vehicle to aid and abet a felon; or

(x) U31 - Violation resulting in fatal accident; or

(xi) MEC - Driving under the influence of drugs metabolite (MEC) ; or

(xii) A35 - Possession of open alcohol container - send as A type record if amended from DUI - otherwise FTA/FTC only; or

(xiii) B02 - Hit and run/fatal; or

(xiv) B03 - Hit and run - injury; or

(xv) B04 - Hit and run - property damage/regular operator; or

(xvi) ARD - Alcohol Restricted Driver; or

(xvii) A08 - DUI of alcohol with BAC at or over .08; or

(xviii) A08 - Driving under the influence alcohol and drugs;

or

(xix) A08 - Driving under the influence w/impaired; or

(xx) A08 - Driving under the influence w/personal injury; or

(xxi) A08 - Driving under the influence w/minor in vehicle;

or

(xxii) A08 - Driving under the influence in a CMV; or

(xxiii) A25 - Impaired Driving; or

(xxiv) A41 - Any Violation of ignition interlock device under 41-6a-518; or

(xxv) A50 - Motor vehicle used in the commission of a felony involving the manufacturing, distributing or dispen a controlled substance; or

(xxvi) ACL - Violation alcohol conditional license; or

(xxvii) B01 - Hit&Run/failure to stop render aid/property dmng/comm only; or

(xxviii) B14 - Failure to reveal identity after fatal accident - commercial only; or

(xxix) B23 - Driving while denied/CMV; or

(xxx) B24 - Driving CMV while disqualified/CMV ; or

(xxxi) B25 - Driving on revocation/CMV; or

(xxxii) B26 - Driving while suspended/CMV; or

(xxxiii) IID - Ignition interlock device violation - (result in 1 yr revocation); or

(xxxiv) M8A - Alcohol related reckless driving; or

(xxxv) U03 - Felony with a vehicle (joy riding) criminal class required; or

(xxxvi) U07 - Vehicular homicide/ regular or CMV; or

(xxxvii) U08 - Vehicular manslaughter/CMV; or

(xxxviii) USV - Shooting gun from a vehicle/Criminal class required(felonly only); or

(xxxix) U09 - Negligent homicide while operating a CMV ; or

(xl) UIV - Throwing incendiary device f/vehicle/criminal class required; or

(xli) U10 - Causing a fatality through the negligent operation of a CMV

(d) The authorized driver has 150 or more points on his or her Utah driver's license record

(e) [~~e~~] The unauthorized use, misuse, abuse or neglect of a state vehicle as validated by the Agency; or

(f) [~~d~~] On the basis of citizen complaints validated by the agency, the authorized driver, while acting within the scope of employment has been found, pursuant to 63A-9-501, to have misused or illegally operated a vehicle three (3) times during a three (3) year period.

~~[(4) The employing agency shall impose a period for which the authority to operate a state vehicle will be withdrawn, suspended or revoked under the circumstances described in R27 7 3(3) (a), (b) or (c), on the basis of an investigation of the circumstances surrounding each accident and the authorized driver's driving history.]~~

(4) [~~5~~] The withdrawal of authority to operate a state vehicle imposed by the Driver Eligibility Board shall be in addition to agency-imposed discipline, corrective or remedial action, if any.

~~[(6) The authorized driver petition the DPRB to review the withdrawal, suspension or revocation of the authority to operate a state vehicle imposed by the employing agency pursuant to R 27 7 3(3) and (4).]~~

~~[(7) Any determination made by the employing agency with regard to the withdrawal, suspension or revocation of the authority to operate a state vehicle, pursuant to R27 7 3(3) and (4) shall remain in effect until such time as a review by the DPRB can be conducted, and a decision rendered.]~~

(5) Drivers declared ineligible to operate a state vehicle by the Driver Eligibility Board may appeal to the Director of the Department of Administrative Services (DAS) or his/her designee. Any appeal to the Executive Director of DAS or his/her designee must be made in writing within 30 days from the date the Driver Eligibility Board declared a state driver ineligible to operate a vehicle.

#### **R27-7-4. Accident Review Committee (ARC).**

(1) Each agency leasing vehicles from the Division of Fleet Operations shall establish and maintain an Accident Review Committee (ARC). Each agency ARC shall conduct at least quarterly reviews of all accidents [~~or complaints~~] involving state vehicles under the possession or control of their respective agencies.

(2) The purpose of the ARC is to reduce the number of accidents [~~and complaints~~] involving drivers of vehicles being used in the course of conducting state business.

(3) After DFO has made an initial determination regarding the status of an accident the agency [The]ARC shall determine,

through a review process, whether an accident was either preventable or non-preventable, using standards published [~~established~~] by the National Safety Council.

(4) Each agency ARC shall, within one (1) calendar month following the last day of the quarter (March, June, September, December), [~~five (5) business days of reviewing an accident,~~] provide to DFO, in writing, its determination and recommended actions, if any, as well as all evidence used to arrive at its determination as to whether the accident was preventable or non-preventable.

(5) If an agency ARC does not send the quarterly accident reviews as specified in R27-7-4(4), the status of the accident will be reviewed by the Driver Eligibility Board on behalf of the agency ARC. The Driver Eligibility Board's decision about the status any vehicle accident will be final. The Driver Eligibility Board may recommend disciplinary actions for agency drivers to the agency when it is acting on behalf of the agency ARC.

#### **R27-7-5. Accident Review Committee Guidelines.**

(1) The ARC shall have no less than three (3) voting members. The members shall be from different areas in the agency.

(2) An accident shall be classified as preventable if any of the following factors are involved:

- (a) Driving too fast for conditions;
- (b) Failure to observe clearance;
- (c) Failure to yield;
- (d) Failure to properly lock the vehicle;
- (e) Following too closely;
- (f) Improper care of the vehicle;
- (g) Improper backing;
- (h) Improper parking;
- (i) Improper turn or lane change;
- (j) Reckless Driving as defined in Utah Code 41-6-45;

(k) Unsafe driving practices, including but not limited to: the use of electronic equipment or cellular phone while driving, smoking while driving, personal grooming, u-turn, driving with an animal(s) loose in the vehicle.

(3) An accident shall be classified as non-preventable when:

(a) The state vehicle is struck while properly parked;

(b) The state vehicle is vandalized while parked at an authorized location;

(c) The state vehicle is an emergency vehicle, and

(i) At the time of the accident the operator was in the line of duty and operating the vehicle in accordance with their respective agency's applicable policies, guidelines or regulations; and

(ii) Damage to the vehicle occurred during the chase or apprehension of people engaged in or potentially engaged in unlawful activities; or

(iii) Damage to the vehicle occurred in the course of responding to an emergency in order to save or protect the lives, property, health, welfare and safety of the public.

~~[(4) The ARC shall notify DFO of their findings, as to whether the accident in question was preventable or non-~~

~~preventable, regarding each accident case reviewed.]~~

**R27-7-6. Effects of ARC Accident Classification.**

(1) In the event that an accident is determined by the ARC to be preventable, the ARC shall impose and enforce the following:

(a) The authorized driver shall be required to attend a Division of Risk Management-approved driver safety program after being involved in the first preventable accident;

(b) The driver shall be required to attend, at their own expense, a state certified or nationally recognized defensive driving course after being involved in a second preventable accident;

~~[(c) The driver may have his or her authority to operate a state vehicle suspended or revoked, if he or she is involved in a third preventable accident within five calendar years of being involved in the first preventable accident.]~~

~~[(3) An employee whose authority to operate a state vehicle has been suspended or revoked pursuant to R27 7 3(3) and (4), may petition the DPRB for a review of the agency ARC's determination. The suspension of state driving privileges shall continue until such time as a formal hearing before the DPRB can be held, and a decision rendered. The provisions of the DPRB's decision, including the revocation of the driver's authority to drive a vehicle in the conduct of state business, will govern from that time forward.]~~

**R27-7-7. Driver Eligibility~~[Driving Privilege Review]~~ Board.**

(1) ~~The [Driving Privilege Review Board (DPRB)]~~ Driver Eligibility Board (DEB) shall have at least 4 ~~[no more than 3]~~ voting members. Members of the Board shall include a representative from the Division of Risk Management, the Division of Fleet Operations, the Department of Human Resource Management and, a representative of the employee's agency. Each member of the Board will be assigned by the Executive Director of the Department of Administrative Services. ~~[The Department of Administrative Services, the Division of Risk Management and the agency whose employee is the subject matter of the case pending before the DPRB shall each have a voting member.]~~

(2) The Driver Eligibility Board shall meet at least quarterly.

(3) The employing agency supervisor and the state driver being reviewed shall be notified of the Driver Eligibility Board's meeting place, date and time. Each state employee reviewed by the Driver Eligibility Board will be given the opportunity to speak to the Board and/or answer questions during the meeting if he or she chooses to attend the Board meeting.

~~[(2) Agency actions that involve the withdrawal, suspension or revocation of the authority to operate a state vehicle are subject to review by the DPRB.]~~

~~[(3) The DPRB shall, upon receipt of the petition for review from the authorized driver, pursuant to R27 7 6(3), schedule a review and render a decision on whether to uphold the agency's decision regarding the withdrawal, suspension or revocation of the authority to operate a state vehicle, or impose a different~~

penalty.]

~~[(4) The DPRB shall, upon receipt of an employing agency's petition, pursuant to R27-7-3(2)(c), schedule a review and render a decision on whether to extend the period for which the authority to operate a state vehicle is withdrawn, beyond the period for which the authorized driver's license is denied, cancelled, disqualified, suspended or revoked.]~~

~~[(5) The employing agency, and the authorized driver shall be notified of the hearing date, the reason for the hearing, the substance of the charges, as well as their respective right to respond to the petition, rebut the evidence presented and present evidence in their respective behalf at the hearing.]~~

~~[(6) The DPRB shall render a decision that will be forwarded to the agency for enforcement. In making its decision, the DPRB may consider factors, including but not limited to, the severity of injuries, the extent of damages, the authorized driver's culpability and willfulness.]~~

~~(4) [(7)] The Driver Eligibility Board [DPRB] may impose an ineligible status from a single day up to three years. [a range of penalties from no action to a withdrawal, suspension or revocation of the authority to operate a state vehicle for an indefinite period.] In no case shall the ineligible status [withdrawal, suspension or revocation of the authority] to operate a state vehicle be less than the period [of withdrawal, suspension or revocation of the privilege to drive] imposed by the courts or the employing agency.~~

~~[(8) An employee whose authority to operate a state vehicle has been withdrawn, suspended or revoked may petition the DPRB for reinstatement of the authority on the basis of changed circumstances. The employee shall provide proof of the change in circumstances that would justify the reinstatement of authority.]~~

**KEY: accidents, incidents, tickets, ARC**

**Date of Enactment or Last Substantive Amendment: July 8, 2003**

**Notice of Continuation: January 20, 2006**

**Authorizing, and Implemented or Interpreted Law: 63A-9-401(1)(d)(iii) [~~63A-9-401(1)(c)(viii)~~]**