

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency

Pennsylvania State Police

(2) Agency Number: 17

Identification Number: 17-79

IRRC Number: 3079

(3) PA Code Cite: TITLE 37. LAWPART I. STATE POLICE CHAPTER 41. DESIGNATION OF EMERGENCY VEHICLES

(4) Short Title: **Designation of Emergency Vehicles**

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: **Thomas F. Jakubiak, Assistant Counsel, Pennsylvania State Police, 1800 Elmerton Avenue, Harrisburg, PA 17110 (phone 717-783-5568) (fax 772-2883) tjakubiak@pa.gov**

Secondary Contact: **Major Marshall A. Martin, Director Legislative Affairs Office, 1800 Elmerton Avenue, Harrisburg, PA 17110 (phone 717-783-5566) (fax 705-1750) MARSHMARTI@pa.gov**

(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

Pursuant to Section 6106 of the Vehicle Code, 75 Pa.C.S. §6106 (relating to designation of emergency vehicles by the Pennsylvania State Police) the State Police may designate any vehicle or group of vehicles as emergency vehicles on a finding that the designation is necessary to the preservation of life or property or to the execution of emergency governmental functions. Under existing regulations Philadelphia Prison System vehicles are not eligible for designation. This rulemaking adds Philadelphia Prison System Vehicles to the list of vehicles eligible to be designated as emergency vehicles if an appropriate finding is made on application.

(8) State the statutory authority for the regulation. Include specific statutory citation.

This rulemaking is authorized section 6106 of the Vehicle Code (75 Pa.C.S. §6106.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

This regulation is not mandated by any federal or state law or court order or federal regulation.

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(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

This regulation will help prevent escapes from the Philadelphia Prison System during prisoner transports. The public at large benefits when prisoners remain in custody. By designating prison vehicles that escort ambulances to be emergency vehicles, the prison vehicle acquires the same special privileges as the ambulance with regard to speed limits and traffic control devices. Unless so privileged escorts have to stop at red lights and can't exceed the speed limit. Such escorts can better remain with the escorted ambulances transporting prisoners and the guards can thwart any escape attempts if they are accorded the same privileges as the ambulances they are escorting.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

This rulemaking was not based upon any scientific data, studies or references but on the specific request of the Philadelphia Prison System.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

Designation of emergency vehicles varies widely from state to state. However, this rulemaking will not put Pennsylvania at a competitive disadvantage.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This rulemaking would not affect other regulations of the Pennsylvania State Police or any other agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The Philadelphia Prison System specifically requested expansion of the definition of vehicles eligible to receive emergency vehicle designation to include Philadelphia Prison System vehicles used to escort ambulance transporting sick or injured prisoners. No other groups are affected and none were consulted.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

No businesses will be affected. The regulation affects only the vehicles of the Philadelphia Prison System.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

The Philadelphia Prison System.

There are no perceived businesses, people, or groups of people who would be adversely affected by this regulation.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

None.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

There are no costs or benefits associated with this regulation. By designating prison vehicles that escort ambulances to be emergency vehicles, the prison vehicle acquires the same special privileges as the ambulance with regard to speed limits and traffic control devices. Such escorts can better remain with the escorted ambulances transporting prisoners and the guards can thwart any escape attempts.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

No fees are required when applying for emergency vehicle designation. There are no costs or savings to the regulated community associated with compliance with this regulation.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no costs or savings to local governments associated with compliance with this regulation.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no costs or savings to state government associated with compliance with this regulation.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

This proposed rulemaking would not require any legal, accounting or consulting procedures or any additional record keeping or other paperwork.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

| | Current FY Year | FY +1 Year | FY +2 Year | FY +3 Year | FY +4 Year | FY +5 Year |
|-----------------------------|----------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| SAVINGS: | \$ | \$ | \$ | \$ | \$ | \$ |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Savings | | | | | | |
| COSTS: | | | | | | |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Costs | | | | | | |
| REVENUE LOSSES: | | | | | | |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Revenue Losses | | | | | | |

(23a) Provide the past three year expenditure history for programs affected by the regulation.

| Program | FY -3 | FY -2 | FY -1 | Current FY |
|----------------|--------------|--------------|--------------|-------------------|
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(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

(a) **None.**

(b) **None.**

(c) **None.**

(d) **No alternative regulatory schemes were considered. No other scheme can accomplish designation of the Philadelphia prison system vehicles as emergency vehicles within the provisions of the Vehicle Code.**

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

The Pennsylvania State Police has determined that there are no special needs of any subset of its applicants for whom special accommodations should be made.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory schemes were considered. No other scheme can accomplish designation of the Philadelphia prison system vehicles as emergency vehicles within the provisions of the Vehicle Code. It is therefore the least burdensome.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

- a) **Not applicable.**
- b) **Not applicable.**
- c) **Not applicable.**
- d) **Not applicable.**
- e) **Not applicable.**

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

This rulemaking was not based upon scientific data, but on the specific request of the Philadelphia Prison System.

(29) Include a schedule for review of the regulation including:

- | | |
|--|----------------------------------|
| A. The date by which the agency must receive public comments: in the Pennsylvania Bulletin. | 30 days after publication |
| B. The date or dates on which public meetings or hearings will be held: hearings are expected to be held. | No public meetings or |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | June 2013 |
| D. The expected effective date of the final-form regulation: final form rulemaking. | Upon Publication as |
| E. The date by which compliance with the final-form regulation will be required: final form rulemaking. | Upon Publication as |
| F. The date by which required permits, licenses or other approvals must be obtained: | Not applicable. |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

Pennsylvania State Police Regulations are reviewed continuously for clarity, effectiveness and whether they are serving the greater interests of the citizens of the Commonwealth.

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FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

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(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
form and legality. Attorney General

Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated by:

Copy below is approved as
to form and legality.
Executive of Independent
Agencies.

Angela Elliott
BY: _____
(DEPUTY ATTORNEY GENERAL)

Pennsylvania State Police
(AGENCY)

[Signature]
BY: _____

MAR 19 2014

DOCUMENT/FISCAL NOTE NO. 17-79

FEB 20 2014

DATE OF APPROVAL

DATE OF ADOPTION: _____

DATE OF APPROVAL

BY: *Col Frank Noonan*
Colonel Frank Noonan

(Executive Deputy General Counsel
Strike inapplicable title)

TITLE: Commissioner
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

- Check if applicable
Copy not approved.
Objections attached.
- Check if applicable. No
Attorney General approval or
objection within 30 day after
submission.

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA STATE POLICE
BUREAU OF PATROL
37 PA. CODE, § 41.5

The Pennsylvania State Police proposes to amend §41.5 (relating to eligibility for emergency vehicle designation) by adding §§41.5(a)(4) and 41.5(b)(7) to read as set forth in Annex A.

Effective date

The proposed rulemaking will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

The proposed rulemaking is authorized under section 6106 of the Vehicle Code (75 Pa.C.S. §6106).

Background and Need for the Amendment

The City of Philadelphia Prison System has identified the need to escort ambulances which are transporting inmates identified as sick or injured from correctional facilities to hospitals or other medical treatment facilities. Prison officials fear that inmates could escape with or without the help of confederates who could be armed. It is also feared that inmates who are witnesses in pending criminal cases could be murdered once outside prison facilities.

Currently, ambulances are defined as emergency vehicles by statute at 75 Pa.C.S. §102 “EMERGENCY VEHICLE.” The ambulance is therefore permitted under §3105 (a) and (b) of the Vehicle Code to exercise certain special privileges that include proceeding past red traffic signals, exceeding maximum speed limits and disregarding rules for direction of travel and overtaking vehicles. Prison vehicles that accompany or escort ambulances are not currently designated as emergency vehicles. These vehicles are not privileged to disregard any sections of the Vehicle Code. There is no derivative privilege gained by escorting the ambulance.

It is, therefore, common that an ambulance will exercise the privilege to run a red light or overtake a vehicle on the right and thereby lose contact with the escort vehicle which must wait for the light or for a slow vehicle to change lanes. When contact is lost the ambulance crew is vulnerable to attack or escape attempts.

In consideration of the above, the Philadelphia Prison system has specifically requested that such escorts be designated as emergency vehicles. It is felt by the Pennsylvania State Police that such designation cannot be properly accomplished without amending the regulation to include this class of vehicle.

Description of the Proposed Rulemaking

The proposed rulemaking would amend §41.5 (relating to eligibility) to add to the class of vehicles eligible to be considered for “emergency vehicle” designation to include Philadelphia Prison System vehicles used to escort ambulances which are transporting sick or injured prisoners. This is accomplished by adding new §41.5(a)(4). The Philadelphia Prison System only requested that this designation be extended only to official vehicles owned or operated by the Philadelphia Prison System. The Pennsylvania State Police concurs that private vehicles should not be used for escort purposes. For these reasons, private vehicles of prison personnel are specifically excluded. That exclusion is accomplished by adding new §41.5(a)(7).

Fiscal Impact and Paperwork Requirements

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. If the change is adopted, The Philadelphia Prison System would submit a single application for approval as already required by regulation. The amendments will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a), on OCT. 16, 2014, the Pennsylvania State police submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Law and Justice Committee and the House Judiciary Committee. A copy of this material is available on request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking by the Pennsylvania State Police, the General Assembly and the Governor for comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Director, Policy Office, Pennsylvania State Police, by mail at 1800 Elmerton Avenue, Harrisburg, PA 17110 or by email at MARSHMARTI@pa.gov, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference 17-79, Designation of Emergency Vehicles, when submitting comments.

Annex A TITLE

37. LAW

PART I. STATE POLICE

CHAPTER 41. DESIGNATION OF EMERGENCY VEHICLES

§ 41.5. Eligibility.

(a) *Considerations.* The following vehicles may qualify for an emergency vehicle designation:

(1) The Pennsylvania Emergency Management Agency and local emergency management organization vehicle.

(2) Bona fide rescue organization vehicle.

(3) Department of Corrections vehicles used by members of the Department's Hostage Rescue Teams, Hostage Negotiation Teams, Corrections Emergency Response Teams, Corrections Rifle Specialist Teams and Central Office Special Teams Coordinator.

(4) Philadelphia Prison System vehicles used to escort ambulances which are transporting sick or injured prisoners.

(b) *Exclusions.* Private vehicles of the following persons will not be considered for an emergency vehicle designation:

(1) Volunteer firemen, fire commissioners, fire inspectors, fire police, fire engineers, other fire department or fire company personnel and members of rescue organizations.

(2) Police, special police, auxiliary police, part-time police, constables, security police and campus police.

(3) Pennsylvania Emergency Management Agency, local emergency management organization or disaster control personnel.

(4) Red Cross personnel.

(5) Military personnel.

(6) The Department of Corrections, its personnel, and members of its Hostage Rescue Teams, Hostage Negotiation Teams, Corrections Emergency Response Teams, Corrections Rifle Specialist Teams and Central Office Special Teams Coordinator.

(7) The personnel and members of The Philadelphia Prison System who escort ambulances which are transporting sick or injured prisoners.

(c) *Restriction.* A designation will be issued only for a vehicle owned or leased by the applicant.



PENNSYLVANIA STATE POLICE
DEPARTMENT HEADQUARTERS
1800 ELMERTON AVENUE
HARRISBURG, PENNSYLVANIA 17110

October 16, 2014

The Honorable John F. Mizner
Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, Pennsylvania 17101

Dear Chairman Mizner:

On behalf of the Pennsylvania State Police (PSP), I respectfully submit the attached packet for Proposed Regulation, ID Number 17-79, relating to designation of emergency vehicles. Specifically, this change will allow the PSP to designate as emergency vehicles those vehicles of the Philadelphia Prison System (PPS) that are used to escort ambulances which are transporting sick or injured prisoners. This will enable the PPS escort vehicles to utilize red lights and sirens in order to follow ambulances directly while traversing intersections with steady red signals and stop signs. Without this ability and due to other traffic congestion issues, public safety is jeopardized if these escort vehicles cannot travel directly following ambulances transporting prisoners, due to the potential for prisoner escape.

Should you have any questions or concerns regarding this proposed regulatory change, I may be reached by telephone, at 717-705-1749 or by email, at rkrol@pa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "LT. Robert J. Krol, Jr." with a stylized flourish at the end.

Lieutenant Robert J. Krol, Jr.
Legislative Affairs Office
Pennsylvania State Police

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 17- 79
SUBJECT: DESIGNATION OF EMERGENCY VEHICLES
AGENCY: PENNSYLVANIA STATE POLICE

TYPE OF REGULATION

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

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FILING OF REGULATION

| <u>DATE</u> | <u>SIGNATURE</u> | <u>DESIGNATION</u> |
|-------------|-----------------------------|---|
| | | <i>HOUSE COMMITTEE ON JUDICIARY</i> |
| 10/16/14 | <i>Lindsay Elwing</i> | MAJORITY CHAIR <u>REP. MARSICO</u> |
| 10/16/14 | <i>Patricia P. Tamm</i> | MINORITY CHAIR |
| | | <i>SENATE COMMITTEE ON LAW AND JUSTICE</i> |
| | <i>Paul Kepp</i> | MAJORITY CHAIR <u>SEN. MCILHINNEY</u> |
| 10-16-14 | <i>A. Rypan</i> | MINORITY CHAIR |
| 10/16/14 | <i>Steph F. [Signature]</i> | <i>INDEPENDENT REGULATORY REVIEW COMMISSION</i> |
| | | <i>ATTORNEY GENERAL (for Final Omitted only)</i> |
| 10/16/14 | <i>[Signature]</i> | <i>LEGISLATIVE REFERENCE BUREAU (for Proposed only)</i> |