

**STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION**

PROPOSED ORDER AMENDING EMERGENCY RULE

The Wisconsin Department of Transportation proposes an order to amend s. Trans 309.25, relating to ambulance inspection standards.

The Statement of Scope for this Emergency Rule, SS-025-23 was approved by the Governor on April 20, 2023, published in Register No. 809A1 on May 1, 2023, and approved by Secretary of the State of Wisconsin Department of Transportation (department) Craig Thompson, as required by s. 227.135(2), Stats, on April 7, 2023. The analysis below was prepared by the Department.

ANALYSIS

Finding of Emergency:

Chapter Trans 309 subch. III describes requirements for ambulance equipment. Section 341.085, Stats., requires the department to inspect all ambulances for the standards listed in ch. Trans 309, subch. III. Section Trans 309.25 repeals subch. III on July 15, 2023, or upon promulgation by the department of health services (DHS) of administrative rules establishing standards and inspection, whichever comes sooner. Currently, DHS does not have authority to promulgate rules establishing standards and inspections. WisDOT needs to commence emergency rulemaking to extend the repeal date to preserve ambulance safety and to protect the consumer, general public, and those travelling throughout Wisconsin.

Statutes Interpreted: Section 341.085, Stats.

Statutory Authority: Sections 341.085 and 227.11, Stats

Explanation of Agency Authority:

Section 341.085, Stats., provides statutory authority to the department regarding ambulance inspection and s. 341.085 (2), Stats. authorizes the department to adopt rules to prescribe ambulance service equipment and standards.

Related Statute or Rule: None.

Plain Language Analysis:

Current s. Trans 309.25 repeals subch. III of ch. Trans 309 on July 15, 2023, or upon promulgation by the DHS of administrative rules establishing standards and inspections, as well as legislative appropriations of resources for such inspections, whichever comes sooner. Currently, DHS does not have authority to promulgate such rules. Subchapter III of ch. Trans 309 dictates the medical equipment the department must inspect when conducting ambulance inspections. If subch. III is repealed, the department would no longer have authority to inspect necessary equipment.

This rulemaking amends s. Trans 309.25 so that subch. III does not repeal until DHS has authority to promulgate such rules.

**Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:
Comparison with Rules in Adjacent States:**

Illinois.

Under 210 ILCS 50/3.85, the Illinois department of public health is required to promulgate rules for licensing vehicle service providers:

“(b) The Department shall have the authority and responsibility to:

...

(3) Establish licensing standards and requirements for Vehicle Service Providers, through rules adopted pursuant to this Act, including but not limited to:

(A) Vehicle design, specification, operation and maintenance standards, including standards for the use of reserve ambulances;

(B) Equipment requirements;

(C) Staffing requirements; and

(D) License renewal at intervals determined by the Department, which shall be not less than every 4 years.”

Under ILCS 5/13-109 (a), medical transport vehicles, other than those owned or operated by a municipal corporation or political subdivision having a population of 1,000,000 or more inhabitants which are subjected to safety tests imposed by local ordinance or resolution, operated in whole or in part over Illinois highways, are subjected to safety tests conducted by the Illinois department of transportation:

“(a) Except as otherwise provided in Chapter 13, each second division vehicle, first division vehicle including a taxi which is used for a purpose that requires a school bus driver permit, and medical transport vehicle, except those vehicles other than school buses or medical transport vehicles owned or operated by a municipal corporation or political subdivision having a population of 1,000,000 or more inhabitants which are subjected to safety tests imposed by local ordinance or resolution, operated in whole or in part over the highways of this State, motor vehicle used for driver education training, and each vehicle designed to carry 15 or fewer passengers operated by a contract carrier transporting employees in the course of their employment on a highway of this State, shall be subjected to the safety test provided for in Chapter 13 of this Code. Tests shall be conducted at an official testing station within 6 months prior to the application for registration as provided for in this Code. Subsequently each vehicle shall be subject to tests (i) at least every 6 months, (ii) in the case of school buses and first division vehicles including taxis which are used for a purpose that requires a school bus driver permit, at least every 6 months or 10,000 miles, whichever occurs first, (iii) in the case of driver education vehicles used by public high schools, at least every 12 months for vehicles over 5 model years of age or having an odometer reading of over 75,000 miles, whichever occurs first, or (iv) in the case of truck tractors, semitrailers, and property-carrying vehicles registered for a gross weight of more than 10,000 pounds but less than 26,001 pounds, at least every 12 months, and according to schedules established by rules and regulations promulgated by the Department. Any component subject to regular inspection which is damaged in a reportable accident

must be reinspected before the bus or first division vehicle including a taxi which is used for a purpose that requires a school bus driver permit is returned to service.”

The Illinois department of transportation promulgates standards for medical transport vehicles under 92 IL ADC 438 App. I.

Iowa.

Under Iowa Admin. Code 641-132.3 (147A), the department of public health oversees service program operations. Each service program must have a designated medical director at all times. Iowa Admin. Code 641-132.3 (2).

All service programs must be inspected and approved by the department. Under Iowa Admin. Code 641-132.3 (9):

“a. Effective January 1, 2022, all service programs, regardless of their designation as governmentally owned, not-for-profit, or privately operated, shall annually systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all ambulances operated by the service program.

b. A service program shall utilize a vehicle inspection report approved by the department to record the results of an annual ambulance safety inspection. Annual safety inspection forms which comply with the requirements of 49 CFR 396 shall be approved by the department. A sample annual vehicle inspection form which complies with the reporting requirements of 49 CFR 396 can be found on the BETS website (www.idph.iowa.gov/BETS/EMS/provider-information).

...

g. Effective January 1, 2022, new ambulances manufactured and placed into service shall meet at a minimum either the Commission on Accreditation of Ambulance Services (CAAS) Ground Vehicle Standard for Ambulances or the National Fire Protection Association (NFPA) Standard for Automotive Ambulances (NFPA 1917).”

Michigan.

The Michigan department of health and human services inspects life support vehicles. Under Mich. Admin. Code r. 325.22190:

“Life support vehicles shall be inspected as follows:

(a) The department may conduct random renewal inspections of life support vehicles, including medical first response vehicles. Inspections shall be unannounced unless circumstances warrant notifying a life support agency in advance that an inspection of its life support vehicles will be conducted. The department shall determine if prior notification of an inspection is warranted. A vehicle license may be renewed without an inspection.

(b) Submission of a licensure renewal application shall be considered an attestation by the life support agency that the vehicle meets all licensure requirements.

(c) A life support agency that is adding a new or higher licensure level for a life support vehicle shall submit an application, on forms provided by the department, and include the required fee. New and higher level of care vehicles shall be inspected before being placed into service. Upon receipt of the application and required fee, the department shall inspect new or upgrade vehicles within 15 days of receipt of application.

(d) A life support agency that is replacing a life support vehicle shall submit an application, on forms provided by the department, and include the required fee. A replacement vehicle means a life support agency has removed a vehicle from service and has replaced the vehicle with another.

(e) Replacement vehicles may be placed into service upon submission of an application and the required fee to the department. Upon receipt of the application and required fee, the department shall inspect the replacement vehicle within 15 days of receipt of the application.”

The department is also responsible for determining what equipment and patient care supplies ambulances must have. Under Mich. Admin. Code r. 325.22185:

“Rule 185. (1) A ground ambulance, rotary ambulance, and aircraft transport vehicle shall be equipped with equipment and patient care supplies as prescribed by the department including temperature control in the patient compartment. The agency shall require that equipment is available and in working order on each vehicle.

(2) A nontransport and medical first response vehicle shall be equipped with patient care equipment and patient care supplies as prescribed by the department. The agency shall require that equipment is available and in working order on each vehicle.

(3) Each life support vehicle shall be equipped with communication capability in accordance with the medcom requirements.”

Minnesota.

The Minnesota emergency medical services regulatory Board inspects ambulances. Under Minn. Stat. 144E.10:

“Subdivision 1. License required. No natural person, partnership, association, corporation, or unit of government may operate an ambulance service within this state unless it possesses a valid license to do so issued by the board. The license shall specify the base of operations, the primary service area, and the type or types of ambulance service for which the licensee is licensed. The licensee shall obtain a new license if it wishes to expand its primary service area, or to provide a new type or types of service.

Subd. 2. Requirements for new licenses. The board shall not issue a license authorizing the operation of a new ambulance service, provision of a new type or types of ambulance service by an existing service, or an expanded primary service area for an existing service unless the requirements of this section and sections 144E.101 to 144E.127 and 144E.18 are met.”

Minn. Stat. 144E.130 describes the minimum patient care equipment necessary for ambulances:

“Subdivision 1. General requirements. Every ambulance in service for patient care shall carry, at a minimum:

- (1) oxygen;
- (2) airway maintenance equipment in various sizes to accommodate all age groups;
- (3) splinting equipment in various sizes to accommodate all age groups;
- (4) dressings, bandages, commercially manufactured tourniquets, and bandaging equipment;
- (5) an emergency obstetric kit;
- (6) equipment to determine vital signs in various sizes to accommodate all age groups;
- (7) a stretcher;
- (8) a defibrillator; and
- (9) a fire extinguisher.

Subd. 2. Advanced life-support requirements. In addition to the requirements in subdivision 1, an ambulance used in providing advanced life support must carry drugs and drug administration equipment and supplies as approved by the licensee's medical director.

Subd. 2a. Maintenance, sanitation, and testing of equipment, supplies, and drugs. Equipment carried on every ambulance in service for patient care must be maintained in full operating condition. Patient care equipment, supplies, and drugs must be stored and maintained within manufacturer's recommendations and:

- (1) all equipment and supplies must be maintained in full operating condition and in good repair;
- (2) all equipment, supplies, and containers used for storage of equipment or supplies must be kept clean so as to be free from dirt, grease, and other offensive matter;
- (3) sheets and pillowcases must be changed after each use;
- (4) single-service equipment and supplies must be wrapped, stored, and handled so as to prevent contamination and must be disposed of after use;
- (5) reusable equipment and supplies must be cleaned after each use so as to be free from dirt, grease, and other offensive matter;
- (6) equipment and supplies, soiled or otherwise not free from dirt, grease, and other offensive matter, must be kept in plastic bags or securely covered containers until disposed of or prepared for reuse; and
- (7) procedures for the periodic performance testing of mechanical equipment must be developed, maintained, and followed, and records of performance testing must be kept in the licensee's files. Testing must occur within the manufacturer's recommendations.

Subd. 3. Storage. All equipment carried in an ambulance must be securely stored.

Subd. 4. Safety restraints. An ambulance must be equipped with safety straps, including shoulder harnesses, for the stretcher and seat belts in the patient compartment for the patient and ambulance personnel.

Subd. 5. Communication equipment. An ambulance must be equipped with a two-way radio that is programmed and operating according to the most recent version of the statewide radio board shared radio and communication plan or its equivalent as determined by the Emergency Medical Services Regulatory Board.”

The Minnesota emergency medical services regulatory board sets standards for ambulance vehicles. Under Minn. R. 4690.3300:

“Subpart 1. Land ambulances purchased after June 30, 1981. All new land ambulances purchased by a licensee after June 30, 1981, must comply with the following standards:

A. the size of the patient compartment must be a minimum of 116 inches long and 52 inches high from floor to ceiling and must provide in width not less than 69 inches wall to wall; or attendant walkway of not less than 12 inches between the stretcher and fixed bench and between stretchers;

B. the door opening to the patient compartment must be a minimum of 30 inches wide and 42 inches high and the door to the patient compartment must be operable from inside the ambulance, and must be capable of being fully opened and held open by a mechanical device;

C. the interior storage areas must provide a minimum of 30 cubic feet of storage space to accommodate all required equipment and other equipment carried and must be located to provide easy access to all equipment;

D. the interior lighting in the patient compartment must include overhead or dome lighting, be designed so that no glare can be reflected to the driver's line of vision while the ambulance is transporting the patient; and provide sufficient lighting to allow visual determination of patient vital signs;

E. environmental equipment must include a heater for the patient compartment that has a minimum output of 21,000 Btu's;

F. the ambulance must:

(1) have an overall height, including roof-mounted equipment except for radio antenna, of 110 inches or less;

(2) have fuel capacity to provide no less than 175-mile range;

(3) have ground clearance of at least six inches when loaded to gross vehicle weight rating; and

(4) be capable of full performance at ambient temperatures of minus 30 degrees Fahrenheit to 110 degrees Fahrenheit; and

G. the ambulance must be marked to show the name of the service as shown in the current license issued by the board, in letters not less than three inches in height and in a position and color to allow identification of the service from the sides and rear of the vehicle.

Subp. 2. Compliance with General Services Administration standards. Land ambulances that comply with the standards issued by the General Services Administration in Federal Specification KKK-A-1822 A for

Emergency Medical Care Surface Vehicle dated April 1, 1980, with the exception of sections 3.14, 3.15, and 3.16, are deemed to comply with the standards contained in subparts 1, 3, and 4.

...

Subp. 4. Siren and light. All land ambulances must be equipped with a siren capable of emitting sound that is audible under normal conditions from a distance of not less than 500 feet and at least one light capable of displaying red light that is visible under normal atmospheric conditions from a distance of 500 feet from the front of the ambulance.”

Summary of the Factual Data and Analytical Methodologies:

In 2012, a National Highway Transportation Safety Administration (NHTSA) recommended that the department “[c]onsolidate ambulance inspection and licensing authority within the Department of Health Services with sufficient funding and personnel to support the function.”

NHTSA further stated that “[t]here is a standardized list of ambulance equipment, including pediatric equipment, listed in the administrative rule Trans 309. The EMS Unit has worked with DOT to develop licensing rules and makes suggestions regarding qualifications for inspection personnel. However, the equipment list has not been updated for over 12 years and the language resides in the DOT administrative rule. Both Dot and the EMS Unit will be reviewing the list for updates but constituents expressed the desire to have this inspection function within the EMS Unit.”

The department promulgated CR 19-074 in late 2020. That rule updated inspection standards and medical equipment standards with the assumption that DHS would have statutory authority to promulgate rules relating to medical equipment standards, set out subch. III of ch. Trans 309. To date, DHS still does not have authority to promulgate such rules. Therefore, the department must move the repeal date set forth in s. Trans 309.25 back.

Analysis Regarding Rule’s Effect on Small Businesses:

This rulemaking does not make substantive changes to current ch. Trans 309, therefore there is no effect on small businesses.

The agency contact person listed below is also the small business regulatory coordinator for this proposed rule. This proposed rule, fiscal estimate, and other related documents may be viewed at <https://docs.legis.wisconsin.gov/code>.

Agency Contact Person:

Capt. Karl Mittelstadt
State of Wisconsin Department of Transportation
Division of State Patrol
4822 Madison Yards Way Room
Madison, Wisconsin 53705
(608) 215-2804
Email address: DOTAdminRules@dot.wi.gov

Place Where Comments Should Be Submitted and Deadline: Comments may be submitted to the agency contact person listed above or through the Legislature's Administrative Rules website <http://docs.legis.wisconsin.gov/code> until the deadline given in the forthcoming notice of public hearing.

TEXT OF RULE

SECTION 1. Trans 309.25 is amended to read:

Trans 309.25 Subchapter III is repealed ~~on July 15, 2023 or~~ upon promulgation by the Department of Health Services of administrative rules establishing standards and inspections, as well as legislative appropriation of resources for such inspections, ~~whichever comes sooner.~~

(END OF RULE TEXT)

Signed this ____ day of _____ 20__.

Craig Thompson, Secretary
State of Wisconsin Department of Transportation