

## ASPR TRACIE Technical Assistance Request

**Response Date:** 25 February 2019

### Request:

The requestor contacted ASPR TRACIE with several questions specific to generator requirements related to the Centers for Medicare & Medicaid (CMS) Emergency Preparedness (EP) Rule.

### Response:

The ASPR TRACIE Team reached out to the CMS Quality, Safety & Oversight Group (QSOG) for a response related to the requestor's generator requirement-specific questions. CMS provided the following response to the several questions posed by the requestor.

**NOTE:** The requestor's questions were in reference to a Frequently Asked Questions (FAQs) document posted on the [CMS website](#). More specifically, the question can be found in [Round 2](#), page 2, and is as follows.

*Question:* General inquiry on generator: Does the generator have to be able to power up AC/Heat? Can you please clarify for me, is that a requirement with the final rule?

*Answer:* The requirement in the Emergency Preparedness final rule states that a facility must develop and implement policies and procedures that address the alternate sources of energy to maintain temperatures to protect resident health and safety and for the safe and sanitary storage of provisions. CMS does not recommend what type of alternate type of energy source a facility chooses. However, the source that is chosen by the facility must be in full compliance with all other CMS conditions for participation in Medicare and Medicaid programs. If a facility determines that the alternate source of energy needed to be in compliance with the Emergency Preparedness final rule requirements is a generator then it must provide the necessary level of generator with a capacity to run a HVAC system.

**Question:** Does this mean that if one does not have AC on backup generator, they could potentially be non-compliant? This is what it appears to say and is a huge change that might move the needle forward. I guess the corollary is could a facility still be compliant if they choose a generator as the stand-by energy source, but the chillers are not linked to generators (i.e., evacuation is the next option).

**Answer:** Based on their all hazards risk assessment, if a facility determines that generator power is required to maintain temperature to protect patients/residents and provisions during an emergency, facility policies and procedures must address how it will acquire the generator power. In these cases, the facility may elect to permanently install generators or arrange for the temporary connection of portable generators. A facility may also elect not to remain operational during all or specific emergencies and the facility's policies and procedures must include how patient/residents will be evacuated in a manner that protects their health and safety.

**Question:** Also, given the large additional load AC puts on backup generators, what has been the change in the industry based on the implementation of the revised CMS regulations? Have more hospitals and skilled nursing facilities (SNFs) “beefed up” generator capability (as most historically do not have widespread AC coverage)? Are there any trends in industry?

**Answer:** In light of recent events such as Hurricane Harvey and others, some states such as Florida under state licensure requirements have required facilities to install emergency generators with the capacity to operate heating and cooling systems. Other states have more stringent requirements based on state licensure. However, the emergency preparedness temperature requirements remain as the minimum requirement as issued in the 2016 Final rule. CMS has proposed some modifications to the emergency preparedness requirements, including changes to frequencies of testing and training, but those have not yet been finalized. Finally, Appendix Z, attached, has some additional clarifications under E0015 - The temperature control as well as the generator areas. Those changes recently made are reflected in red for reference.

## **Additional CMS-Specific Information:**

In February 2019, CMS updated the [State Operations Manual: Appendix Z-Emergency Preparedness for All Provider and Certified Supplier Types Interpretive Guidance](https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Emergency-Prep-Rule.html), which addresses specific regulatory expectations. The updated document includes emerging infectious diseases to the definition of all-hazards approach; provides new Home Health Agency citations; and lists clarifications under alternate source power and emergency standby systems. It is also posted on the CMS website (under the Downloads section):

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Emergency-Prep-Rule.html>.

ASPR TRACIE has developed and collected a number of resources that we encourage you to use and believe will help facilitate compliance, including the resources provided in this response. However, this does not substitute review of the final rule text and interpretive guidelines. If you have specific questions about your facility's compliance please review the interpretive guidelines, or contact your state's survey agency or the CMS Quality, Safety & Oversight Group (QSOG) at the following email address: [SCGEmergencyPrep@cms.hhs.gov](mailto:SCGEmergencyPrep@cms.hhs.gov).

CMS and ASPR TRACIE are partnering to provide technical assistance, and share resources and promising practices to help affected providers and suppliers start or update the documents mandated by the new Emergency Preparedness rule. Additional key resources include:

- The ASPR TRACIE dedicated CMS Rule page: <https://asprtracie.hhs.gov/cmsrule>
- The entire CMS Emergency Preparedness Rule: <https://federalregister.gov/a/2016-21404>
- The CMS Emergency Preparedness Survey and Certification Page: <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Emergency-Prep-Rule.html>
- CMS has developed a [Quick Glance Table of the rule requirements by provider type](#), to highlight key points of the new Emergency Preparedness rule. **NOTE:** This table is not meant to be an exhaustive list of requirements nor should it serve as a substitute for the regulatory text.
- ASPR TRACIE developed a [CMS Emergency Preparedness \(EP\) Rule Resources at Your Fingertips Document](#). Within this document are links to key resources:
  - CMS' developed [frequently asked questions \(FAQ\) documents](#) that synthesizes answers to commonly asked inquiries about the CMS EP Rule.
  - The FAQs, in combination with the CMS [at-a-glance chart](#) and [Provider and Supplier Type Definitions Fact Sheet](#), can help planners identify and address planning gaps and facilitate compliance with the regulations.
  - Interested in learning more about your local healthcare coalition? [This chart](#) can help you identify the preparedness office of your state public health agency. Remember: the release of the CMS EP Rule provides healthcare coalitions a tremendous opportunity to strengthen relationships and leverage a broader group of personnel and resources to provide for the medical needs of the whole community during a disaster.
  - To review the Medicare Learning Network National Call on the EP Rule, you can access the PowerPoint [slides, transcript, and audio recording here](#).