

Survey & Certification Group
Frequently Asked Questions (FAQs)
Emergency Preparedness Regulation

Risk Assessments and Documentation

Q: Which Hazard Vulnerability Assessment (HVA) or Risk Assessment is recommended for use by providers? How will surveyors review the Risk Assessments for compliance?

A: Providers and suppliers must have a written Risk Assessment based on an “all-hazards” approach, or HVA. We are not requiring a specific format to be used, however, we recommend facilities who have not prepared a Risk Assessment to reach out to ASPR TRACIE who can provide additional resources. Additional guidance will be forthcoming in the Interpretive Guidelines that will include survey procedures for surveyors.

Training and Testing

Q: What are the requirements for Ambulatory Surgical Centers (ASCs) regarding the participation in a community full- scale exercise?

A: Per 416.54(d)(2)(i) of the final rule an ASC is required to participate in a full-scale exercise that is community-based. If the ASC experiences an actual natural or man-made emergency that requires activation of the emergency plan, the ASC is exempt from engaging in a community-based or individual, facility-based full-scale exercise for 1 year following the onset of the actual event. (**64024 Federal Register** / Vol. 81, No. 180 / Friday, September 16, 2016 / Rules and Regulations)

Please refer to page 63900 of the final rule that stated if a community disaster drill is not available, we would require an ASC to conduct an individual facility-based disaster drill.

Transfer Agreements and Coordination Required

Q: Are there specific Memorandum of Understanding (MOU) requirements in the new guidelines such as a required MOUs list to be sure all the bases are covered?

A: The regulation does not specify provider and supplier MOUs; however, the regulation does speak to the need for transfer agreements depending on the facility type. For example, during an emergency, if a patient requires care that is beyond the capabilities of the ASC, we would expect that ASCs would transfer patients to a hospital with which the ASC has a written transfer agreement, as required by existing § 416.41(b), or to the local hospital, that meets the requirements of §416.41(b)(2), where the ASC physicians have admitting privileges. (**Federal Register** /Vol. 81, No. 180 / Friday, September 16, 2016 /Rules and Regulations **63899**) Therefore, we recommend facilities review current CoPs/CfCs for specific details on transfer agreements. A sample Transfer Agreement is also located under the download section at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Emergency-Prep-Rule.html>. ASPR TRACIE may also provide sample transfer agreements currently available.

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Life Safety Code (LSC)- Revised June 2017

Q: 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?

A: 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.

Q: Do PACE programs need to meet generator requirements?

A: The LSC may require a generator at certain PACE locations if the services provide electrical life support or other critical care. The Emergency Preparedness regulation also requires PACE facilities to have alternate sources of energy to maintain temperatures to protect patient health and safety and for the safe and sanitary storage of provisions. If a facility needs a generator to meet the temperature requirement then it must provide the necessary level of generator with a capacity to run a HVAC system.

Q: What is the frequency of generator testing according to the NFPA 110?

A: NFPA 110, *Standard for Emergency and Standby Power Systems* has many requirements for the installation, maintenance and testing of generators, depending on the type of generator. Basic requirements are that a generator be inspected weekly and test run for 30 minutes monthly.

Q: Are all Nursing Homes required to have a generator? What if the Nursing Home doesn't currently have a generator? Must they install one? Is compliance with NFPA 70 & NFPA 110 sufficient, or are there additional requirements regarding the generator and/or fuel capacity? - Revised June 2017

A: Long Term Care facilities are required by the Emergency Preparedness (EP) final rule to 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 specify what type of alternate type of energy source or emergency and standby power system 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 LTC facility determines that the alternate source of energy needed to be in compliance with the EP final rule requirements is a generator then it must provide a generator with sufficient capacity and must adhere to the location, inspection and testing, and fuel requirements.

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Generator installation, maintenance, inspection and testing must be in accordance with applicable NFPA codes and standards, including the 2012 Life Safety Code, 2012 Health Care Facilities Code, 2010 Standard for Emergency and Standby Power Systems, and 2011 National Electrical Code. In addition, the EP final rule requires facilities that maintain an onsite fuel source to have a plan to keep emergency power systems operational during an emergency, unless it plans to evacuate. Also, there may be state and local regulations that have additional requirements regarding the generator and any required fuel capacity.

Q: Are there recommended types of generators?

A: CMS does not recommend a specific type of generator. Generator selection is dependent on the needs of the facility to meet the requirements of the regulation.

Q: Can you tell me what the requirements are for generators in a nursing home under the new emergency preparedness rule? Are “whole building” generators required or would portable generators that only power certain things be sufficient?

A: The requirements for LTC facilities are located at 483.73(e) of the final rule (**Federal Register** /Vol. 81, No. 180 / Friday, September 16, 2016 /Rules and Regulations page 64031.) Regarding “whole building” generators, the new rule does not specify that a facility must have a generator that would support the operations of a “whole building.”

Q: Does the requirement to maintain temperatures via alternate power (Generators) apply to areas where pharmaceuticals and other temperature limited storage criteria is specified by the manufacturer?

A: Under 482.15 (b)(1)(ii)(A) temperatures to protect patient health and safety and for the safety and sanitary storage of provisions. Refer also to (i) provisions which refers to pharmaceutical supplies as provisions. So yes they need to maintain temperatures of storage areas.

Q: Can you explain the difference between the Emergency and Standby Power Systems requirement and the requirement to have policies and procedures for alternate sources of energy to maintain temperatures to protect resident health and safety and for the safe and sanitary storage of provisions, emergency lighting, fire detection, extinguishing, alarm systems and sewage and waste disposal? - Revised June 2017

A: Hospitals, CAHs, and certain LTC facilities that provide general anesthesia or use life-support equipment are currently required to have “emergency and standby power systems” electrical systems designed and installed in accordance with the NFPA 99, *Health Care Facilities Code and NFPA 110, Standard for Emergency and Standby Power Systems* that provide an alternative source of electrical power to certain essential equipment and systems, which typically requires a generator.

The Emergency Preparedness (EP) “alternate sources of energy” requirement applies to certified Hospitals, CAHs, LTC facilities, RNCHIs, Hospices, PRTFs, PACE organizations, and ICF/IIDs and requires an alternative energy source to maintain temperatures necessary to protect patient/resident health and for the safe and sanitary storage of provisions, emergency lighting, fire detection, extinguishing, alarm systems, and sewage and waste disposal. In Hospitals, CAHs, and

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certain LTC facilities, the “alternate sources of energy” may already be provided by the “emergency and standby power systems”.

The EP final rule does not specify that a generator is required to meet the “alternative sources of energy” requirement. However, if the facility’s EP plan determines that a generator would be needed to maintain emergency power for facility temperature, emergency lighting, fire detection, extinguishing, alarm systems, and sewage and waste disposal it must be properly installed and maintained.

Q: Does the rule apply to Adult Day Healthcare Programs (ADHCPs)? What if the ADHCP or other entity is co-located or housed in a nursing home’s building?

A: The regulation is applicable to 17 Medicare and/or Medicaid providers and suppliers. The complete listing can be found under our download section on this website. This regulation does not apply to ADHCPs. If a non-participating entity (such as an ADHCP) is located within a Medicare and/or Medicaid participating facility, we would expect the participating facility to consider the non-participating entity when developing its emergency plans.