Learning from the CMS Emergency Preparedness Rule and Looking Forward

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Patrick Ashley, MS, MBA, State Hospital Coordinator, Office of Emergency Preparedness, Virginia Department of Health
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National Healthcare Coalition Preparedness Conference
November 29, 2018
Disclaimer

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This publication is a general summary that explains certain aspects of the Medicare Program, HHS Office of the Assistant Secretary for Preparedness and Response (ASPR), and Virginia Department of Health (VDH), but is not a legal document. The official Medicare Program provisions are contained in the relevant laws, regulations, and rulings. Medicare policy changes frequently, and links to the source documents have been provided within the document for your reference.

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Welcome and Introductions

Melissa Harvey, RN, MSPH
Director, Division of National Healthcare Preparedness Programs (NHPP), HHS ASPR
CMS Emergency Preparedness Rule

Medicare and Medicaid Programs; Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers

Understanding the Emergency Preparedness Final Rule
Where Are We Now?

Caecilia Blondiaux
Quality, Safety & Oversight Group
Center for Clinical Standards and Quality
Centers for Medicare & Medicaid Services
Final Rule

• Published September 16, 2016 with an implementation date of November 15, 2017
• Applies to all 17 provider and supplier types
• Compliance required for participation in Medicare (and Medicaid, as applicable)
• Emergency Preparedness is one new CoP/CfC of many already required
  – For example, many providers and suppliers are required to meet life safety codes that protect residents against fires and health safety codes that keep a reasonable temperature for residents.
• Facilities began being surveyed for the new requirements after November 2017 in conjunction with their existing survey cycles
• In the event facilities are non-compliant, the same general enforcement procedures will occur as is currently in place for any other conditions or requirements cited for non-compliance.
Four Provisions for All Provider Types

- Risk Assessment and Planning
- Policies and Procedures
- Communication Plan
- Training and Testing

Emergency Preparedness Program
Emergency Preparedness: An All-Hazards Approach

• An all-hazards approach is an integrated approach to emergency preparedness planning that focuses on capacities and capabilities that are critical to preparedness for a full spectrum of emergencies or disasters
• Includes internal emergencies; man-made emergencies; natural disaster; and/or emerging infectious diseases.
• Specific to geographic location of the provider or supplier including state and local requirements
• These may include, but are not limited to, care-related emergencies, equipment and power failures, interruptions in communications, including cyber-attacks, loss of a portion or all of a facility, and interruptions in the normal supply of essentials such as water and food.
Available Training Resources

• In September, 2017, CMS launched the surveyor training for emergency preparedness requirements. Available at [https://surveyortraining.cms.hhs.gov/](https://surveyortraining.cms.hhs.gov/)

• Training through the Integrated Surveyor Training Website is also available for providers/suppliers.

• The website also provides important links to additional resources and organizations who can assist. [https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/index.html](https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/index.html)
Where are we now?

• Surveys began in late November and are being conducted by either health surveyors or Life Safety Code (LSC) surveyors

• Surveys are in conjunction with regularly scheduled survey cycles

• Limited inquiries in recent months from providers and suppliers on what to do in order to be compliant

• CMS and ASPR continue to monitor compliance and work with health care entities.
Analysis of EP Rule Citations

• CMS and ASPR TRACIE reviewed recent emergency preparedness deficiencies among provider types from CMS surveys.

• Updating and monitoring performance of health care providers and suppliers:
  – Analyzing citations based on surveys conducted by CMS between November 15, 2017 though September 30, 2018
  – Develop useful display templates
  – Update data every 6 months

• The purpose of this effort is to:
  – Identify ways to strengthen emergency preparedness efforts of health care providers and suppliers at all levels (National; State; Regional; and Local Healthcare Entity)
  – Enhance and hone future technical assistance efforts
  – Highlight geographic variances
  – Reduce surveyor variances
  – Create a reporting template
  – Create a baseline of information that can be updated and monitored
Overview of Current CMS EP Rule Surveys

• Collated preliminary citations based on CMS state surveys conducted between November 15, 2017 though September 30, 2018

• During that same time period:
  – 74,747 healthcare entities were eligible for EP Surveys (including entities that were terminated during this time)
  – 28,171 healthcare entities were surveyed one or more times
  – One facility can be subject to up to 39 Tags (44 Tags total but not all apply to each provider)
  – 6,251 healthcare entities were cited for at least one tag
    • 19,620 EP citations total were issued to these 6,251 health care entities

Note: Surveys conducted by State Survey Agencies in August and September 2018 may not be reflected in the analysis as they are given 70 days to report survey outcomes per reporting requirements.
What do the Data Show?

• As of September 30, 2018, we have surveyed over 90% of the nursing homes and 29% of hospitals for compliance with these requirements. Nursing homes receive an annual recertification survey, while hospitals are surveyed every three to five years.

• The majority of providers surveyed (78%) met the new emergency preparedness requirements.

• 78% of nursing homes and 96% of hospitals of those surveyed by September 30, 2018 fully in compliance with requirements.
  – 22% of nursing homes and 4% of the hospitals surveyed received at least one deficiency citation under Emergency Preparedness.

• All deficiencies cited require swift correction action to avoid termination. To date, all facilities cited corrected deficiencies and no facilities have been terminated for not meeting emergency preparedness requirements.
• With the data as the core driver, CMS will review the trends and continue to analyze citations on emergency preparedness.

• CMS plans to work closely with ASPR on potential areas of improvement, such as templates, additional resources, and more information to assist providers in compliance.

• CMS will also analyze the specific citations to determine the need for increased surveyor training opportunities and clarifications.
Survey Data Variability

• The data represented in this analysis has some variability because of survey cycles and does not include results of surveys conducted by Accrediting Organizations. The emergency preparedness requirements are surveyed based on the facility types regular scheduled survey cycle in conjunction with their health or Life Safety Code Surveys.

• For example:
  – Nursing Homes & ICF/IIDs: Annual-Not to Exceed 15 months
  – Home Health Agencies: Generally every 2 to 3 years
  – Hospitals: Generally every 3 to 5 years
  – ESRD: Generally every 3 years
  – Hospices: Generally every 3 years
  – RHCs & ASCs: Generally every 6 years
  – CMHCs: Generally every 5 years

For more information on survey cycles, please visit: https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/QSOG-Mission-and-Priority-Information.html
Number of Healthcare Entities Impacted by the CMS EP Rule
By Provider Type (Nov 15, 2017 – Sept 30, 2018)

Total N= 74,747

Note: Nursing Facility includes Nursing Facility, Skilled Nursing Facility, and Skilled Nursing Facility/Nursing Facility (Distinct Part and Dually Certified)
Number of Healthcare Entities Surveyed on the CMS EP Rule
By Provider Type (Nov 15, 2017 – Sept 30, 2018)

Total N = 28,171
Note: Federally Qualified Health Centers were not surveyed during this time period.
Number of Healthcare Entities Surveyed that Received Citation by Provider Type (Nov 15, 2017 – Sept 30, 2018)

- Nursing Facility: [VALUE] (22%)
- Intermediate Care Facility/Individuals with Intellectual Disabilities: [VALUE] (37%)
- End Stage Renal Disease Facility: [VALUE] (17%)
- Home Health Agency: [VALUE] (14%)
- Ambulatory Surgical Center: [VALUE] (27%)
- Rural Health Clinic: [VALUE] (27%)
- Hospice: [VALUE] (9%)
- Outpatient Physical Therapy/Speech Pathology: [VALUE] (37%)
- Hospital: [VALUE] (4%)
- Comprehensive Outpatient Rehab Facility: [VALUE] (59%)
- Psychiatric Residential Treatment Facility: [VALUE] (21%)
- Community Mental Health Center: [VALUE] (21%)
- Organ Procurement Organization: [VALUE] (6%)

Total N= 6,251 (22%)
Top 5 National EP Citations
(Nov 15, 2017 – Sept 30, 2018)

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<td>1769</td>
<td>1250</td>
<td>1142</td>
<td>1004</td>
<td>996</td>
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**EP Testing Requirements**
- “Failed to conduct exercises to test the emergency plan at least annually, including unannounced staff drills using the emergency procedure”
- “Failed to provide documentation of participation in a community-based and tabletop drill”

**EP Training and Testing**
- “Failed to ensure EP training and testing for all staff was documented, reviewed and updated on an annual basis”

**Develop and Maintain EP Program**
- “Failed to develop and maintain an EP plan that was reviewed and updated at least annually”
- “Failed to provide the annual review and update of their EP Program”

**Development of EP Policies and Procedures**
- “Failure to develop and implement policies and procedures that aligns with the hazards identified within the facility’s risk assessment”
- “Provided incomplete EP policies and procedures. This was evidenced by incomplete policies and procedures for disaster emergencies relating to sewage and waste disposal and the use of volunteers during a disaster scenario”

**Subsistence needs for staff and patients**
- The EPP did not include provisions for emergency food preparation, food service and water supply.”
- “Failed to provide documentation that the emergency preparedness plan address vendor contract agreements to provide provision of subsistence including food and water.”

Top five national EP citations represent 31% (n=6,161) of the total number of citations (n=19,620).
**Top 5 Citations by Providers (Nov 15, 2017 – Sept 30, 2018)**

<table>
<thead>
<tr>
<th>Nursing Facility</th>
<th>Intermediate Care Facility/Ind. with Intellectual Disabilities</th>
<th>Home Health Agency</th>
<th>End Stage Renal Disease Facility</th>
<th>Ambulatory Surgical Center</th>
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</thead>
</table>

<table>
<thead>
<tr>
<th>Rural Health Clinic</th>
<th>Hospice</th>
<th>Hospital</th>
<th>Outpatient Physical Therapy/Speech Pathology</th>
<th>Comprehensive Outpatient Rehab Facility</th>
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<tr>
<td>Process for EP Collaboration</td>
<td>Names and Contact Information</td>
<td>Roles under a Waiver Declared by Secretary</td>
<td>Emergency Officials Contact Information</td>
<td>EP Testing Requirements</td>
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<tr>
<td>EP Training Program</td>
<td>Arrangement with other Facilities</td>
<td>Procedures for Tracking of Staff and Patients</td>
<td>Policies and Procedures for Volunteers</td>
<td>Development of Communication Plan</td>
</tr>
</tbody>
</table>

Highlighted citations indicate citations seen in 5 or more of the providers’ top 5 citations list. Psychiatric Residential Treatment Facilities, Community Mental Health Centers, and Organ Procurement Organizations were not included in the table due to their low number of citations.
Training and Testing Program

• CMS has and will continue to reach out to local and state emergency officials to relay information on the EP Final Rule

• Challenges at state and local levels are:
  – Assisting multiple facilities in exercises with limited resources
  – Coordinating exercises relevant to facilities

• Risk Assessments & Compliant Training Exercises
The EP Final Rule & 1135 Waivers

• To be compliant with the requirement under the Emergency Preparedness Final Rule, facilities need to have a policy and procedure for addressing your facility’s awareness of the 1135 waiver process.

• There is no specific form or document template for the policy or procedure to meet this requirement. Some elements that could be considered and reflected (but not limited to):
  – Facility role in providing care and treatment at alternate site – for example: equipment and supplies, command and control, staffing
  – Collaboration with local officials – proactive planning, pre-designated site? Predestinated roles, emergency credentialing procedures for providers to practice at alternate site (if waiver does not cover provider licensure)
  – The procedure for applying for an 1135 waiver and contact information for Regional Office and State Survey Agency.
Your Regional Offices

- **What is the role of CMS Regional Office during an emergency?**

- Responding promptly to requests for 1135(b) waiver

- Referring questions and waiver/suspension of regulation requests to CMS Central Office, as needed.

- Requesting status reports from the State Agency regarding affected health care providers

- Assisting affected State Agencies to provide essential monitoring and enforcement activities if the State Agency is overwhelmed/unable to meet their survey and certification obligations.
Key Points

• State and Local Laws (must still comply)

• EP Final Rule does not take away any existing requirements

• Lessons Learned from Evacuations & Adherence to local/state mandates

• Strong and Effective Partnerships are Critical to Emergency Preparedness and Response

• Continue to analyze the data to ensure that we are learning from those areas that health care entities may continue to struggle with – to provide technical assistance and resources improving the preparedness of our healthcare system.
New Appendix Z Anticipated Changes

• Adding Emerging Infectious Diseases (guidance/recommendation only)
• Including New Citation References for Home Health Agencies
• Clarifications on use of portable generators:

  • **Portable and mobile generators must:**
    – Be connected to the facility electrical system through a compatible connecting device and transfer switch.
    – Be located where protected from damage during the course of an emergency.
    – Not be operated inside the facility, in an enclosed area such (e.g., garage, basement), or other location that would not allow for proper ventilation of the exhaust.
    – Not be located where exhaust from the engine would be brought into the facility through windows or other ventilation system intakes.
    – Not be located in proximity to the building where a generator fire could spread to the facility.
    – Be operated, tested and maintained in accordance with manufacturer, local and/or State requirements.
    – For requirements regarding permanently installed generators, please refer to existing Life Safety Code and NFPA guidance.
Burden Reduction Proposed Rule

• CMS recently released the proposed Burden Reduction Rule for Non Long-Term Care

• The proposal asked for public feedback regarding changes to multiple areas, one being the requirements for EP (comment period closed 11/19)
  – Proposed Change to Documentation of collaboration with State and Local partners
  – Changes to frequency of updating from annual to bi-annual & as needed
  – Changes to training and Testing Requirements

• Proposed is not final. Facilities must continue to comply with the current requirements.
Resources for 1135 Waivers

- **Email Addresses for CMS Regional Offices:**
  - **ROATLHSQ@cms.hhs.gov** (Atlanta RO): Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee;
  - **RODALDSC@cms.hhs.gov** (Dallas RO): Arkansas, Louisiana, New Mexico, Oklahoma, and Texas
  - **ROPHIDSC@cms.hhs.gov** (Northeast Consortium): Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia, New York, New Jersey, Puerto Rico, Virgin Islands, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont
  - **ROCHISC@cms.hhs.gov** (Midwest Consortium): Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin, Iowa, Kansas, Missouri, and Nebraska

- **Quality, Safety & Oversight Group 1135 Waiver Resource Website at:**
Resources Available

• ASPR’s TRACIE Website
  – Provider Checklists are available
  – Risk Assessment Examples

• CMS encourages facilities to use TRACIE to allow for some level of consistency in format & development of programs

• Our CMS Website
Thank you!

SCGEmergencyPrep@cms.hhs.gov
Virginia Healthcare Emergency Management Program

Learning from the CMS Emergency Preparedness Rule and Looking Forward

- Patrick Ashley, MS, MBA
- Patrick.Ashley@vdh.virginia.gov
- State Hospital Coordinator, Office of Emergency Preparedness, Virginia Department of Health
Virginia’s System

• 6 Healthcare Coalitions
  • Mirror Public Health Regions

• COALITION Staff
  • Regional Healthcare Coordinator
  • RHCC Manager
  • Vulnerable Populations Coordinator

• Coalition Membership
  • HPP Core Membership
  • Additional Required: Long Term Care
  • Dialysis strongly encouraged
Virginia’s System, Continued

• 24/7 RHCC Activation
• Common Situational Awareness Product
Virginia’s System, Continued

VDH

CMS Survey Agency

• VDH Office of Licensure and Certifications

HPP/PHEP Awardee

• VDH Office of Emergency Preparedness

Virginia Emergency Support Team

• VDEM
• VSP / VDOT
• VDH
• National Guard
What does the CMS rule mean to me?

Facilities
Emergency Managers
Public Health
Fire Department
EMS

Random People Off the Street!
Initial Questions

How many facilities are we talking about?

What do facilities need to know?

What do partners need to know?
  What do partners need to do?

What can we do to help?
Opportunity
Three Groups of Facilities

*Hospitals*

In-Patient/Residential Providers
Dialysis Providers
Outpatient Providers

Identify YOUR Priorities
It’s OK To Say No.
Take the Show on the Road

Meet Them Where They’re Already At.

Education Sessions
- Local Emergency Managers
- Facility Groups
- Public Health
- Virginia Emergency Management Association
- Virginia Healthcare Association
- Leading Age
- Regional Groups
- Surveyors
Facility Education

What does Emergency Management actually mean?

What does the regulation ACTUALLY say?

How do I do this?

Can you hold my hand?

Can you do it for me?
Consulting

For those facilities that just can’t or wont.
Exercises

The 3 PM Phone Call.

Understanding what the rule says.

Regional Exercises.

Partnering with Existing Exercises.
Surveyor Education

Surveyor Training / Priorities.

What’s the number to FEMA?

Two Way Dialogue.
  • Funnel Facilities to Coalition for TA
  • Event Notification

Stakeholder Education

Why are these facilities calling me?
  Can you make it stop?

Why do I want to engage with these facilities?

What can the coalition do to help?
Training

Hazard Vulnerability Analysis.

Brings people together. The topic doesn’t really matter as long as it’s interesting and starts a dialogue.

Respect their time. Bring food.

Interdisciplinary whenever possible.
# Information Sharing

<table>
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<tr>
<th>Organization Name</th>
<th>Jurisdiction</th>
<th>Clinical Status</th>
<th>Emer. Op Status</th>
<th>ECC Status</th>
<th>Facility / Evac Status</th>
<th>Security Status</th>
<th>Resource Staffing</th>
<th>Facility Supplies</th>
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### LTC Status

- Clinical Status: Normal
- Comments: 

### Nursing Facility Beds available for Resident Intake:

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<th>Male</th>
<th>Female</th>
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<tbody>
<tr>
<td>2</td>
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</table>

### Current Resident Census:

- Skilled Nursing Facility Beds (SNF)
- Nursing Facility Beds (NF)
Evacuate or stay? For nursing homes in storm's path, the decision isn't easy

"You’re damned if you do and you’re damned if you don’t," said a researcher who found evacuating increases the likelihood of death 90 days after a storm.

Norfolk nursing home evacuates ahead of Florence

Consulate Health Care started moving its residents to a safer location on Wednesday morning.

NORFOLK, Va. (WVEC) — Some of Norfolk’s most vulnerable citizens have been moved out of their homes ahead of Hurricane Florence.

Nursing home

With the Hurricane Florence Zone A evacuation notice, Convalescent Center Mathews had to be evacuated. Spokesperson Shannon Fedors. Throughout last week, the team quickly came together and moved their 60 residents to other locations.

According to Fedors, 25 members of the team worked around the clock to get Mathews residents to a new location. The team received great support and cooperation throughout Riverside and the city, helping them complete the evacuation on schedule.

Author: Laura Geller
Published: 12:43 PM EDT September 12, 2018
Updated: 3:44 PM EDT September 13, 2018
What did we learn?

- Full time "Medically Vulnerable Populations Coordinator" responsible for engaging these groups and getting face time in front of facility decision-makers. Can’t be other duties as assigned.
- Annual regional exercise opportunities (tabletop and full scale).
- CMS providers often reach out to us following a negative survey or in preparation for a survey when they realize they are behind the ball.
- Quarterly MVP meetings/workshops on relevant emergency preparedness topics
- MVP representation on coalition executive board.
- Disclaimers.
What did we learn?

• These facilities are not hospitals and have different needs.
• Many of these facilities are where hospitals were 20 years ago.
• Bringing emergency management and public health to the table as these discussions occur is also a feather in the cap for everyone. It lends credibility to the HCC and ensures engagement from other critical partners in the community's emergency response system.
• Make them sign an MOU with activities defined.
• Like to Like Collaboration and Mutual Aid.
• Engagement of Survey Agency is key.
ASPR’s Technical Resources, Assistance Center, & Information Exchange

Shayne Brannman, MS, ASPR TRACIE Program Director
ASPR TRACIE: Three Domains

- Self-service collection of audience-tailored materials
- Subject-specific, SME-reviewed “Topic Collections”
- Unpublished and SME peer-reviewed materials highlighting real-life tools and experiences

- Personalized support and responses to requests for information and technical assistance
- Accessible by toll-free number (1844-5-TRACIE), email (askasprtracie@hhs.gov), or web form (ASPRtracie.hhs.gov)

- Area for password-protected discussion among vetted users in near real-time
- Ability to support chats and the peer-to-peer exchange of user-developed templates, plans, and other materials
ASPR TRACIE-Developed Resources

Since ASPR TRACIE’s launch in 2015, our staff and Subject Matter Expert Cadre have developed resources to support healthcare system preparedness, public health preparedness, and disaster clinical professionals plan, respond to, and recover from all hazards disasters and emergencies. This page provides a comprehensive list with hyperlinks to all ASPR TRACIE-developed materials.

Administrative/General
- Completed Topic Collections
- Resources at Your Fingertips
- Tip Sheets and Fact Sheets
- The Exchange
- The Express
- Tools and Templates
- Webinars and Videos
- Website Tutorials

Administrative/General
- ASPR TRACIE Fact Sheet
- CMS Resource Page
- Full List of Topic Collections
- Select Health Care Coalition Resources
- Select Hurricane-Related Resources
- Select Infectious Disease Resources
- Select Mass Violence Resources
- Select Materials on Drug Shortages and Scarce Resources
- Summary of TA Requests

Completed Topic Collections
- Access and Functional Needs Topic Collection
- Alternate Care Sites (including shelter medical care)
- Ambulatory Care and Federally Qualified Health Centers Topic Collection
- Burn
- Coalition Administrative Issues

Tools and Templates
- EMS Infectious Disease Playbook
- Health Care Coalition Pandemic Checklist
- Health Care Coalition Preparedness Plan
- Health Care Coalition Resource and Gap Analysis Tool
- Healthcare Coalition Resource and Gap Analysis Aggregator
- Health Care Coalition Response Plan
- Health Care Coalition Surge Test Tool
- Hospital Pharmacy Disaster Calculator

Website Tutorials
- ASPR TRACIE Assistance Center
- ASPR TRACIE Rating, Commenting On, and Saving Resources
- ASPR TRACIE Technical Resources
- ASPR TRACIE User Experience and Dashboard
- Tips for Navigating the Information Exchange

ASPRtracie.hhs.gov/tracie-resources
Healthcare Coalition Resource Examples

- Coalition Administrative Issues TC
- Coalition Models and Functions TC
- Coalition Response Operations TC
- General Overview of Healthcare Coalitions
- HCC Fiscal Models
- HCC Preparedness Plan
- HCC Recovery Plan Template
- HCC Resource and Gap Analysis Aggregator
- HCC Resource and Gap Analysis Tool
- HCC Response Plan
- HCC Pandemic Checklist
- HCC Select Resources Page
- HCC Webinar Series
Technical Assistance Trends

Top Technical Assistance Request Topics

- CMS EP Rule*
- Natural Disaster
- Zika
- Crisis Standards of Care
- Healthcare Coalitions
- Radiological/Nuclear
- VHF/Ebola
- HVA/Risk Assessment
- Cybersecurity
- Mental/Behavioral Health

*This category overlaps with a variety of technical assistance topics (e.g., emergency and communications planning, evacuation, and exercises).

Who Requests Technical Assistance

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<thead>
<tr>
<th>Category</th>
<th>Percentage</th>
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<td>Federal Government</td>
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Our Subject Matter Experts

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<tr>
<td>EM/First Responder</td>
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<tr>
<td>Academia</td>
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ASPR TRACIE CMS EP Rule Resource Examples

- CMS EP Rule Resource Page
- CMS and Disasters: Resources at Your Fingertips
- CMS EP Rule General Briefing Slides
- Integrated Healthcare Systems Implications
- Provider and Supplier Types Covered by the EP rule Facility-Specific Requirement Overviews
- EP Rule Citation Analysis Project
ASPR TRACIE and the CMS EP Rule Analysis Project

- ASPR TRACIE created a baseline EP Rule reporting template that will be routinely updated and monitored
- Continue identifying ways to strengthen emergency preparedness, response, and recovery efforts at all levels
- Hone future technical assistance efforts, based on identified knowledge gaps
- Continue highlighting geographic variances
- Continue to be a force multiplier and thought leader
- Listen (and act upon) feedback
  - How can we enhance the reporting template?
- Keep pushing the envelope, with our partners, so we can all learn together
Contact Us

asprtracie.hhs.gov  
1-844-5-TRACIE  
askasprtracie@hhs.gov
Audience Discussion and Q&A