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Fast Track Proposed Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation	12 VAC5-31
Regulation title	Virginia Emergency Medical Services Regulations
Action title	Amend the <i>Virginia EMS Regulations</i> pertaining to Financial Assistance for Emergency Medical Services.
Date this document prepared	April 3, 2015

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The proposed amendments make certain technical changes in order to improve the clarity of the regulations by better defining the purpose, eligibility criteria and approval process for certain grant applications. These proposed amendments do not affect the purpose of the regulations.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

FARC – Financial Assistance and Review Committee
RSAF – Rescue Squad Assistance Fund

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The State Board of Health approved the fast track amendments to the Virginia Emergency Medical Services Regulations on June 5, 2014.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

§ 32.1-111.4. Regulations; emergency medical services personnel and vehicles; response times; enforcement provisions; civil penalties.

A. The State Board of Health shall prescribe by regulation:

1. Requirements for record keeping, supplies, operating procedures and other agency operations;
2. Requirements for the sanitation and maintenance of emergency medical services vehicles and their medical supplies and equipment;
3. Procedures, including the requirements for forms, to authorize qualified emergency medical services personnel to follow Do Not Resuscitate Orders pursuant to § [54.1-2987.1](#);
4. Requirements for the composition, administration, duties and responsibilities of the State Emergency Medical Services Advisory Board;
5. Requirements, developed in consultation with the Emergency Medical Services Advisory Board, governing the training, certification, and recertification of emergency medical services personnel;
6. Requirements for written notification to the State Emergency Medical Services Advisory Board, the State Office of Emergency Medical Services, and the Financial Assistance and Review Committee of the Board's action, and the reasons therefor, on requests and recommendations of the Advisory Board, the State Office of Emergency Medical Services or the Committee, no later than five workdays after reaching its decision, specifying whether the Board has approved, denied, or not acted on such requests and recommendations;
7. Authorization procedures, developed in consultation with the Emergency Medical Services Advisory Board, which allow the possession and administration of epinephrine or a medically accepted equivalent for emergency cases of anaphylactic shock by certain levels of certified emergency medical services personnel as authorized by § [54.1-3408](#) and authorization procedures that allow the possession and

administration of oxygen with the authority of the local medical director and a licensed emergency medical services agency;

8. A uniform definition of "response time" and requirements, developed in consultation with the Emergency Medical Services Advisory Board, for each agency to measure response times starting from the time a call for emergency medical care is received until (i) the time an appropriate emergency medical response unit is responding and (ii) the appropriate emergency medical response unit arrives on the scene, and requirements for agencies to collect and report such data to the Director of the Office of Emergency Medical Services who shall compile such information and make it available to the public, upon request; and

9. Enforcement provisions, including, but not limited to, civil penalties that the Commissioner may assess against any agency or other entity found to be in violation of any of the provisions of this article or any regulation promulgated under this article. All amounts paid as civil penalties for violations of this article or regulations promulgated pursuant thereto shall be paid into the state treasury and shall be deposited in the emergency medical services special fund established pursuant to § [46.2-694](#), to be used only for emergency medical services purposes.

B. The Board shall classify agencies and emergency medical services vehicles by type of service rendered and shall specify the medical equipment, the supplies, the vehicle specifications and the personnel required for each classification.

C. In formulating its regulations, the Board shall consider the current Minimal Equipment List for Ambulances adopted by the Committee on Trauma of the American College of Surgeons.

§ 32.1-111.5. Certification and recertification of emergency medical services providers; appeals process.

A. The Board shall prescribe by regulation the qualifications required for certification of emergency medical services providers, including those qualifications necessary for authorization to follow Do Not Resuscitate Orders pursuant to § [54.1-2987.1](#). Such regulations shall include criteria for determining whether an applicant's relevant practical experience and didactic and clinical components of education and training completed during his service as a member of any branch of the armed forces of the United States may be accepted by the Commissioner as evidence of satisfaction of the requirements for certification.

B. Each person desiring certification as an emergency medical services provider shall apply to the Commissioner upon a form prescribed by the Board. Upon receipt of such application, the Commissioner shall cause the applicant to be examined or otherwise determined to be qualified for certification. When determining whether an applicant is qualified for certification, the Commissioner shall consider and may accept relevant practical experience and didactic and clinical components of education and training completed by an applicant during his service as a member of any branch of the armed forces of the United States as evidence of satisfaction of the requirements for certification. If the Commissioner determines that the applicant meets the requirements for certification as an emergency medical services provider, he shall issue a certificate to the applicant. An emergency medical services provider certificate so issued shall be valid for a period required by law or prescribed by the Board. Any certificate so issued may be suspended at any time that the Commissioner determines that the holder no longer meets the qualifications prescribed for such emergency medical services provider. The Commissioner may temporarily suspend any certificate without notice, pending a hearing or informal fact-finding conference, if the Commissioner finds that there is a substantial danger to public health or safety. When the Commissioner has temporarily suspended a certificate pending a hearing, the Commissioner shall seek an expedited hearing in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.).

C. The Board shall prescribe by regulation procedures and the qualifications required for the recertification of emergency medical services providers.

D. The Commissioner may issue a temporary certificate when he finds that it is in the public interest. A temporary certificate shall be valid for a period not exceeding 90 days.

E. The State Board of Health shall require each person who, on or after July 1, 2013, applies to be a volunteer with or employee of an emergency medical services agency to submit fingerprints and provide personal descriptive information to be forwarded along with his fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation, for the purpose of obtaining his criminal history record information. The Central Criminal Records Exchange shall forward the results of the state and national records search to the Commissioner or his designee, who shall be a governmental entity. If an applicant is denied employment or service as a volunteer because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The proposed amendments are essential to protect the health, safety and welfare of the citizens because they clarify the regulations by better defining the purpose, eligibility criteria and approval process for certain grant applications. There are no substantive content changes being proposed. The changes have been reviewed by the Financial Assistance Review Committee and approved by the Rules and Regulations Committee of the EMS Advisory Board.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The technical changes have been vetted through the standing committees of the EMS Advisory Board and are technical in nature only. There is no anticipated opposition to these changes as presented.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.) Please be sure to define any acronyms.

The changes proposed are technical in nature and intended to clarify existing language in the regulations without making any substantive changes. . There is no new terminology or requirements to this section of the EMS Regulations. Recommended changes include moving certain language to a more appropriate section of the regulations; improve the flow , understanding and readability of the regulations; and better define the purpose, and approval process for the grant application.

Issues

Please identify the issues associated with the proposed regulatory action, including:
1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
2) the primary advantages and disadvantages to the agency or the Commonwealth; and
3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

1. The primary advantage to the public is a regulation that is easier to read and that provides a better understanding of the grant process. There are no disadvantages to the public.
2. The primary advantage to the agency and the Commonwealth is a clearer, more understandable flow of the EMS Regulations for the reviewer
3. There are no are known disadvantage to the agency or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements that exceed any applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No locality is disproportionately affected by this recommended change.

Regulatory flexibility analysis

Pursuant to §2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will

accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

There are no alternative regulatory methods to accomplish the objectives of the applicable laws. There are no known adverse impacts on small business.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that we are looking at the impact of the proposed changes to the status quo.

Description of the individuals, businesses or other entities likely to be affected (positively or negatively) by this regulatory proposal. Think broadly, e.g., these entities may or may not be regulated by this board	All eligible licensed EMS agencies and non-profit entities who participate in EMS activities.
Agency’s best estimate of the number of (1) entities that will be affected, including (2) small businesses affected. Small business means a business, including affiliates, that is independently owned and operated, employs fewer than 500 full-time employees, or has gross annual sales of less than \$6 million.	All eligible EMS agencies (approximately 600), nonprofit entities who participate in EMS activities (approximately 500) and local governments who provide EMS services (approximately 100).
Benefits expected as a result of this regulatory proposal.	A better understanding of regulatory requirements with wording changes that do not affect content.
Projected cost to the state to implement and enforce this regulatory proposal.	There are no projected costs to the state as these are technical changes only.
Projected cost to localities to implement and enforce this regulatory proposal.	None.
All projected costs of this regulatory proposal for affected individuals, businesses, or other entities. Please be specific and include all costs, including projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses, and costs related to real estate development.	None.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There are no readily identified alternatives.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory action has no impact on the institution of the family or family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all differences between the pre-emergency regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulation(s) or regulations that are being repealed and replaced, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
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<p>12VAC5-31-2810. The Financial Assistance and Review Committee (FARC).</p>		<p>A. Financial Assistance and Review Committee appointments</p> <p>4. Midterm vacancies shall be filled by nominations from affected designated regional EMS council.</p> <p>B. Geographical representation.</p> <p>2. The eligible designated regional EMS council shall nominate one to three candidates to fill a vacancy on the FARC. The EMS Advisory Board shall make appointments from the nominations submitted by the designated regional EMS council. Consideration for filling vacancies shall include length of nonrepresentation on FARC in an effort to provide reasonable geographic distribution.</p>	<p>4. Midterm vacancies shall be filled by nominations submitted from <u>the</u> affected designated regional EMS council.</p> <p>Rationale: Technical grammar correction only.</p> <p>2. The eligible designated regional EMS council shall nominate one to three candidates to fill a vacancy on the FARC. The EMS Advisory Board shall make appointments from the nominations submitted by the designated regional EMS council. Consideration for filling vacancies shall include length of nonrepresentation on FARC in an effort to provide reasonable geographic distribution.</p> <p>Rationale: The intent is to be consistent with similar nomination processes for other appointed positions. This creates an opportunity for a broader pool of potential nominates and an objective selection process.</p>
<p>12VAC5-31-2830. Award of RSAF General Grants.</p>		<p>A. The requirements of this section shall apply to the disbursement of funds.</p> <p>B. A nonprofit licensed EMS agency or other Virginia emergency medical service organization operating on a nonprofit basis exclusively for the benefit of the general public pursuant to § 32.1-111.12 of the Code of Virginia is eligible for an RSAF General Grant.</p> <p>An applicant must be in compliance with these regulations.</p> <p>C. Programs, services, and equipment funded by the RSAF must comply with the plans, policies, procedures, and guidelines adopted by the State EMS Advisory Board. Awards are based upon one or more of the following criteria:</p> <p>1. Establishment of a new EMS agency, program, or</p>	<p>A. The requirements of this section shall apply to the disbursement of funds.</p> <p>B. A nonprofit licensed EMS agency or other Virginia emergency medical service organization operating on a nonprofit basis exclusively for the benefit of the general public pursuant to § 32.1-111.12 of the Code of Virginia is eligible for an RSAF General Grant.</p> <p><u>C.</u> An applicant must be in compliance with these regulations.</p> <p>C-D. Programs, services, and equipment funded by the RSAF must comply with the plans, policies, procedures, and guidelines adopted by the State EMS Advisory Board. Awards are based upon one or more of the following criteria <u>Grants may be approved for the following:</u></p> <p>1. Establishment of a new EMS agency, program, or service where needed to improve emergency medical services offered in an area;</p> <p>2. Expansion or improvement of an existing EMS agency, program, or service;</p> <p>3. Replacement of equipment or</p>

<p>12VAC5-31-2840. Grant award cycle.</p>	<p>12VAC5-31-2840. <u>General Grant grant award cycle.</u></p>	<p>service where needed to improve emergency medical services offered in an area;</p> <p>2. Expansion or improvement of an existing EMS agency, program, or service;</p> <p>3. Replacement of equipment or procurement of new equipment. EMS vehicles purchased with funding from the RSAF shall meet the current state and/or federal standards for the type of vehicle purchased; or</p> <p>4. Establishment, expansion or improvement of EMS training programs.</p> <p>C. Dates of award shall be July 1 and January 1 of each year.</p> <p>D. Other dates in the award process shall be established by the Office of EMS.</p>	<p>procurement of new equipment. EMS vehicles purchased with funding from the RSAF shall meet the current state and/or federal standards for the type of vehicle purchased; or</p> <p>4. Establishment, expansion or improvement of EMS training programs.</p> <p>Rationale: Technical grammar correction, The language was moved to the section "Use of Funds" and not criteria for award determination.</p> <p><u>C. Applications shall be made to the Office of EMS on an approved application form.</u></p> <p>C. D. Dates of award shall be July 1 and January 1 of each year.</p> <p>D. E. Other dates in the award process shall be established by the Office of EMS.</p> <p>Rationale: This section is specific for the General grant award. This provides clarification on type of form required and adds consistency in application.</p>
<p>12VAC5-31-2860. EMS System Initiative Awards.</p>		<p>EMS System Initiative Awards are based on priorities and needs identified by the Advisory Board in concert with the office to meet EMS system objectives as stipulated in § 32.1-111.3 of the Code of Virginia.</p> <p>1. The Office of EMS or FARC, in consultation with EMS Advisory Board, may implement EMS System Initiative Awards at any time. Examples of such awards would include medically advanced equipment with broad application</p>	<p>EMS System Initiative Awards are based on priorities and needs identified by the Advisory Board in concert consultation with the office Office of EMS to meet EMS system objectives as stipulated in § 32.1-111.3 of the Code of Virginia.</p> <p>2. Applications must be made to the Office of EMS on an approved application form. <u>EMS System Initiative Award applications shall be on the Office of EMS approved application form, using approved pricing, application eligibility, award criteria and approved priorities.</u></p> <p>4. EMS System Initiative Awards shall be <u>may be granted for the following</u> based upon the demonstrated needs from the following criteria need:</p>

		<p>(automated external defibrillation) and information technology to enhance communications and data (computers).</p> <p>2. Applications must be made to the Office of EMS on an approved application form.</p> <p>4. EMS System Initiative Awards shall be based upon the demonstrated needs from the following criteria:</p> <p>a. Establishment of a new EMS agency, program, or service where needed to improve emergency medical services offered in an area;</p> <p>b. Expansion or improvement of an existing EMS agency, program, or service;</p> <p>c. Replacement of equipment or procurement of new equipment. EMS vehicles purchased with funding from the RSAF shall meet the current state and/or federal standards for the type of vehicle purchased;</p> <p>A. Applications must be made to the Office of EMS.</p> <p>B. The Office of EMS will review applications for compliance with the EMS regulations and RSAF policies and procedures. The FARC reviews and grades applications and makes recommendations on funding.</p> <p>B. Grantees will be notified of their award by mail.</p>	<p>a. Establishment of a new EMS agency, program, or service where needed to improve emergency medical services offered in an area;</p> <p>b. Expansion or improvement of an existing EMS agency, program, or service;</p> <p>c. Replacement of equipment or procurement of new equipment. EMS vehicles purchased with funding from the RSAF shall meet the current state and/or federal standards for the type of vehicle purchased;</p> <p>d. Establishment, expansion or improvement of EMS training programs.</p> <p>Rationale: Technical grammar changes and this provides clarification on type of form required and adds consistency in application.</p> <p>A. Applications must <u>shall</u> be made to the Office of EMS.</p> <p>B. The Office of EMS will review applications for compliance with the EMS regulations and RSAF policies and procedures. The FARC reviews and grades applications and makes recommendations on <u>general grant</u> funding.</p> <p>Rationale: Technical grammar changes and this defines the category of grants to be reviewed by the FARC.</p> <p>B. Grantees will be notified of their award by mail.</p> <p>Rationale: Use of technology to provide more timely notification and reduction of paperwork in accordance of Executive Order 82 (2009).</p>
<p>12VAC5-31-2880. Application for award.</p>			
<p>12VAC5-31-2900. Awards.</p>			

<p>12VAC5-31-2920. Use of funds.</p>		<p>A. Awards will be made in accordance with § 32.1.111.12 of the Code of Virginia.</p> <p>B. Funds must be used only for the specific items, service, or programs for which they were awarded. This includes any conditions placed upon the grant award.</p> <p>C. The grantee is required to sign an agreement form attesting that the award funds will be used as granted and meets all conditions placed upon the award.</p> <p>E. Funds must not be used for expenditures or commitments made before the date of the grant award or after the conclusion of the grant period.</p> <p>F. Funds will not be approved or disbursed for:</p> <ol style="list-style-type: none"> 1. Leased equipment or vehicle; 2. Equipment or vehicles secured by a lien; 3. Guarantees or warranties; 4. Used equipment or vehicles without prior approval; or 5. Fire suppression apparatus or law-enforcement equipment. 	<p>A. Awards will <u>shall</u> be made in accordance with § 32.1.111.12 of the Code of Virginia. B.</p> <p>B. Funds must <u>shall</u> be used only for the specific items, service, or programs for which they were awarded <u>and in accordance with</u>. This includes any conditions placed upon the grant award.</p> <p>C. The grantee is required to <u>shall</u> sign an agreement form attesting that the award funds will <u>shall</u> be used as granted and <u>the grantee meets all conditions placed upon the award</u></p> <p><u>E. EMS vehicles purchased with funding from the RSAF shall meet the current state and/or federal standards for the type of vehicle purchased.</u></p> <p>E F. Funds must <u>shall</u> not be used for expenditures or commitments made before the date of the grant award or after the conclusion of the grant period.</p> <p>F G. Funds will <u>shall</u> not be approved or disbursed for:</p> <ol style="list-style-type: none"> 1. Leased equipment or vehicle; 2. Equipment or vehicles secured by a lien; 3. Guarantees or warranties; 4. Used equipment or vehicles without prior approval; or 5. Fire suppression apparatus or law-enforcement equipment. <p>Rationale: Technical grammar changes and statement added to this section as criteria for the use of funds and to clarify considerations for award determinations.</p>
<p>12VAC5-31-2930. Ownership.</p>		<p>The title for all equipment, including EMS vehicles, shall be in the name of the organization to which the award has been made or in the name of the local jurisdiction or government entity in which the organization is located. This requirement shall apply to the ownership of equipment purchased in whole or in part with the use of these funds.</p>	<p>The title for all <u>All</u> equipment, including EMS vehicles, shall be in the name of the organization to which the award has been made or in the name of the local jurisdiction or government entity in which the organization is located. This requirement shall apply to the ownership of equipment purchased in whole or in part with the use of these funds.</p> <p><u>A copy of the title, for all EMS vehicles must be provided to the Office of EMS.</u></p> <p>Rationale: This clarifies a title is needed only for automotive equipment.</p>

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