State of California
Office of Administrative Law

In re:
Emergency Medical Services Authority

Regulatory Action: Title 22
California Code of Regulations

Adopt sections: 100144
Amend sections: 100135, 100136, 100137, 100139, 1000139, 100140, 100141, 100142, 100143, 100144, 100145, 100146, 100147, 100148, 100149, 100150, 100151, 100152, 100153, 100154, 100155, 100156, 100157, 100158, 100159, 100160, 100161, 100162, 100163, 100164, 100165, 100166, 100167, 100168, 100169, 100170, 100171, 100172, 100173, 100174, 100175
Repeal sections:

DECISION OF DISAPPROVAL OF REGULATORY ACTION

Government Code Section 11349.3

OAL File No. 2012-0801-07 S

SUMMARY OF REGULATORY ACTION

The Emergency Medical Services Authority (EMSA) proposed this action to adopt one and amend forty-one sections pertaining to paramedics in title 22 of the California Code of Regulations (CCR). This action would expand the paramedic basic scope of practice and would also adopt a new category of paramedic provider: the Critical Care Transport Paramedic. Controlled substance security policy requirements were also added in this rulemaking. Additionally, there is some clean-up of language proposed throughout the paramedic chapter.

DECISION

On September 13, 2012, the Office of Administrative Law (OAL) notified EMSA that OAL disapproved the proposed regulations for failure to comply with specified standards and procedures of the California Administrative Procedure Act (APA). The reasons for the disapproval are summarized below:

A. The agency failed to comply with the "Necessity" standard of Government Code section 11349.1(a)(1);

B. The proposed regulations failed to comply with the "Clarity" standard of Government Code section 11349.1(a)(3); and

C. The agency failed to comply with all required Administrative Procedure Act procedures.

DISCUSSION

Any regulation adopted by a state agency through its exercise of quasi-legislative power delegated to it by statute to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure, is subject to the APA unless a statute *expressly exempts* the regulation from APA review (Gov. Code, secs. 11340.5 and 11346). No exemption or exclusion applies to the regulatory action here under review. OAL reviews all regulatory submissions for compliance with applicable APA procedural requirements and for compliance with the standards for administrative regulations in Government Code section 11349.1. Generally, to satisfy the standards, a rule or regulation must be legally valid, supported by an adequate record, and easy to understand. In its review, OAL may not substitute its judgment for that of the rulemaking agency with regard to the substantive content of the regulation. OAL review is an independent executive branch check on the exercise of rulemaking powers by executive branch agencies and is intended to improve the quality of regulations that implement, interpret and make specific statutory law, and to ensure that required procedures are followed in order to provide meaningful opportunity to comment on regulations before they become effective. Consequently, before these regulations may become effective, the regulations and rulemaking record must be reviewed by OAL for compliance with the substantive standards and procedural requirements of the APA, in accordance with Government Code section 11349.1.

Due to the numerous issues in this decision, upon resubmission of this matter, OAL reserves the right to conduct a complete review for compliance with the procedural and substantive requirements of the APA. All APA issues must be resolved prior to OAL's approval.

A. NECESSITY

OAL must review regulations for compliance with the "Necessity" standard of Government Code section 11349.1. Government Code section 11349, subdivision (a), defines "Necessity" as meaning "...the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record. For purposes of this standard, evidence includes, but is not limited to, facts, studies, and expert opinion."

To further explain the meaning of substantial evidence in the context of the "Necessity" standard, subdivision (b) of section 10 of title 1 of the CCR provides:

> In order to meet the "necessity" standard of Government Code section 11349.1, the record of the rulemaking proceeding shall include:
>
> (1) a statement of the specific purpose of each adoption, amendment, or repeal; and
>
> (2) information explaining why each provision of the adopted regulation is required to carry out the described purpose of the provision. Such information shall include, but is not limited to, facts, studies, or expert opinion. When the explanation is based upon policies, conclusions, speculation, or conjecture, the rulemaking record must include, in addition, supporting facts, studies, expert opinion, or other information. An "expert" within the meaning of this section is a person who possesses special skill or knowledge by reason of study or experience which is relevant to the regulation in question.

In order to provide the public with an opportunity to review and comment upon an agency's need for a regulation, the APA requires that a rulemaking agency describe the need for the regulation and identify documents relied upon in proposing the regulation in the Initial Statement of Reasons (ISOR), pursuant to Government Code section 11346.2, subdivision (b).

The ISOR provided with this regulatory action is inadequate. For the most part, it describes "what" the regulations do, not "why" they are needed. The ISOR fails to provide the public with the rationale for the determinations by EMSA as to why the specific regulatory changes are needed to carry out the purpose for which they are proposed. This vital information should have been made available to the public during the rulemaking process so that the public is informed of the basis of the proposed action and can comment knowledgably during the public comment period.

The following examples demonstrate the types of necessity issues to be addressed by EMSA prior to its resubmission of this regulatory action. However, all of the regulatory provisions in this action need to be supported by adequate necessity and will have to be resolved prior to approval by OAL.

1. <u>Out-Of-State Continuing Education Provider Fee</u>

EMSA provided the following rationale in the ISOR to explain modifications to the fee for out-of-state continuing education providers in section 100172: "Subsection (b)(7) language was amended to establish the fee for approval and re-approval [sic] out-of-state CE provider fees will be $2500.00. This is to ensure that the EMS Authority has sufficient funds for Authority staff to travel to the CE provider's location to conduct site visits and audits to make sure the CE provider is in compliance with the CE Provider Regulations." This amendment raises the fee from $200.00 to $2500.00. There is no information in the ISOR that explains how the fee amount was arrived at by EMSA. (Because OAL has determined that this fee modification is outside the scope of the original notice, EMSA should be sure to include information explaining how the new fee was determined if it chooses to adopt this fee modification in another rulemaking action in accordance with the APA. See discussion in C.1., below.)

2. Pulmonary Ventilation by use of Perilaryngeal Airways

EMSA provided the following rationale in the ISOR to explain the modification to section 100146 that added the performance of pulmonary ventilation by use of perilaryngeal airways: "This skill is being added for consistency with the National EMS Scope of Practice Model." As amended by the rulemaking, section 100146, subdivision (c)(1)(D), expands the EMT scope of practice by adding perilaryngeal airways to the list of ways to perform pulmonary ventilation.

The "National EMS Scope of Practice Model" cited above is the National EMS Scope of Practice Model (DOT HS 810 657) published in 2007 by the United States Department of Transportation. Paramedic use of perilaryngeal airways is not specifically mentioned in the national standards. EMSA did not explain the reason in the ISOR for this expansion of pulmonary ventilation in the scope of practice.

3. Paramedic Base Hospital

Section 100169 describes the requirement that a local EMS Agency shall designate a paramedic base hospital as well as requirements a paramedic base hospital must meet. EMSA made changes to this section in this rulemaking action and one of the changes was to require that the mandatory written agreement between the base hospital and the local EMS agency be reviewed every three years. EMSA states in the ISOR that the purpose for this change is: "Subsection (b)(6) was amended to add that the base hospital's written agreement with the LEMSA will be reviewed every three-years." The justification provided in the ISOR by EMSA for the changes is: "This was necessary for consistency clarity." EMSA offers no further explanation on the subject of this requirement for a review every three years.

EMSA does not demonstrate in the ISOR "why" EMSA decided to require this review every three years. The ISOR merely states "what" EMSA is doing. In order to meet the "Necessity" standard, EMSA needs to include in the rulemaking record the rationale demonstrating why it needed to modify the text in the ways described above and the rationale then needs to be made available to the public pursuant to Government Code section 11347.1.

B. CLARITY

OAL must review regulations for compliance with the "Clarity" standard of the APA, as required by Government Code section 11349.1. Government Code section 11349, subdivision (c), defines "Clarity" as meaning "...written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them."

Proposed regulation section 100146 contains the items that are within the basic scope of practice for a paramedic. Section 100146, subdivision (c)(1)(J), states that a paramedic may: "Use laboratory devices, including point of care testing, for pre hospital screening use to measure lab values including, but not limited to: glucose, capnometry, capnography, and carbon monoxide when appropriate authorization is obtained from State and Federal agencies."

This subdivision is unclear because it cannot be readily understood by the regulated public. Section 100146(c)(1)(J) indicates that appropriate authorizations must be obtained in order to use laboratory devices. Persons directly affected have no way of determining what authorization is required or how to obtain the authorization.

C. INCORRECT PROCEDURES; DEFECTIVE AND MISSING DOCUMENTS

1. Notice of Proposed Rulemaking

To initiate an APA rulemaking action, an agency issues a notice of proposed rulemaking by having the notice published in the California Regulatory Notice Register. Government Code section 11346.5(a)(3) requires that the notice of proposed rulemaking contain "An informative digest drafted in plain English in a format similar to the Legislative Counsel's digest on legislative bills." Government Code section 11346.5(a)(3)(C) explains that this informative digest must contain, "A policy statement overview explaining the broad objectives of the regulation...."

These requirements are intended to assure the provision of sufficient information to allow people who read the notice to determine whether they are interested in learning more about the proposed action and participating in the rulemaking process. EMSA's notice of proposed rulemaking contains an informative digest and it states:

> Current law authorizes the EMSA to adopt minimum standards for the training and scope of practice for personnel that perform duties related to prehospital emergency medical care.
>
> The EMSA proposes to amend Chapter 4 of Division 9, of Title 22. This Chapter of Regulations was last revised in 2010 and there have been numerous advances and changes in prehospital training and scope of practice both nationally and in California. These amendments are intended to:
> 1. To expand the paramedic basic scope of practice by moving the majority of local optional scope of practice items into the basic scope. This will make the local paramedic scope of practice approval process more efficient.
> 2. Introduce two new categories of paramedic providers: the Critical Care Transport (CCT) Paramedic, and the Advanced Prehospital Paramedic (APP). Some forms of the CCT Paramedic are currently being utilized in 15 of the 32 local EMS systems. This will standardize training for all CCT Paramedic programs. The APP is a new category that would be useful on air ambulance flight crews because the expansion of the scope of practice. This training will also be standardized with this rulemaking.
> 3. Introduce controlled substance security policy requirements.
> 4. Complete necessary clean-up on language throughout the Chapter.

EMSA proposes to amend section 100172 to increase the fee for out-of-state continuing education providers. The fee is being amended from $200 to $2500. The informative digest does not discuss any fee increases or out-of-state continuing education providers. Therefore, this

change is beyond the scope of the notice and EMSA cannot raise the fee in section 100172 based on the notice provided for this rulemaking. In order to increase this fee EMSA will have to issue a new notice of proposed rulemaking and comply with the full APA process.

2. Documents Relied Upon Missing from the Rulemaking File

In connection with the initial 45-day notice published September 9, 2011, EMSA made available an "Initial Statement of Reasons" which indicated that there were reports or documents supporting the regulation changes. Additionally, EMSA received a comment from the San Diego County Paramedic Association questioning the removal of pediatric oral endotracheal intubation from the paramedic basic scope of practice. In response to this comment EMSA stated, "The study referenced in this decision is – Gausche et all (Jama 2000)." This appears to reference a document relied upon in making a regulation change. These documents relied upon were not included in the rulemaking file submitted to OAL. Government Code section 11347.3(b)(7) specifies that one of the required contents of a rulemaking file is the following: "All data and other factual information, technical, theoretical, and empirical studies or reports, if any, on which the agency is relying in the adoption, amendment, or repeal of a regulation . . . ." Consequently, EMSA's documents relied upon are required to be included in the rulemaking file to meet APA requirements.

EMSA will need to add the documents relied upon to the rulemaking file. Furthermore, Government Code section 11347.1 establishes specific procedural requirements for notifying the public when documents relied upon are added to the rulemaking file after the initial publication of a notice of proposed action and for making the documents available for public inspection and comment. The addition of the documents to the rulemaking file will need to be "noticed" in accordance with the requirements of Government Code section 11347.1. (Generally, a notice of added documents under Government Code section 11347.1 can be combined with a notice of regulation text modifications under CCR, title 1, section 44.)

3. Incorporation by Reference

EMSA proposed the incorporation by reference of the U.S. Department of Transportation (DOT) National Emergency Medical Services Education Standards (DOT HS 811 077A, rev. January 2009). OAL's regulation on "Incorporation by Reference," CCR, title 1, section 20, sets forth a number of requirements which apply when a rulemaking agency proposes to incorporate documents by reference in its regulations. When an agency incorporates a document by reference, the Final Statement of Reasons (FSOR) for the rulemaking action must include specific statements in support of the incorporation by reference under CCR, title 1, sections 20(c)(1) and 20(c)(2). These required statements were not included in EMSA's FSOR.

Additionally, EMSA is amending the revision date of four forms in section 100163 and adopting a new form. CCR, title 1, section 20 provides the requirements for a state agency that wishes to incorporate another document as part of a regulation by reference to that document. An incorporation by reference of an external document (or part of an external document) into a regulatory provision effectively makes the incorporated text a part of the regulatory provision, as though the incorporated text were printed in its entirety as part of the regulatory provision. For

this reason the incorporated document must be included in the rulemaking record for OAL review and must have been made available to the public for comment. Subdivision (b) of section 20 provides in pertinent part:

> Material proposed for "incorporation by reference" shall be **reviewed in accordance with procedures and standards for a regulation** published in the California Code of Regulations.... (Emphasis added.)

In order to be reviewed by OAL, a document incorporated by reference must be included along with the regulation text submitted to OAL with the rulemaking file.

Subdivision (c) of section 20 provides other requirements for a state agency that wishes to incorporate a document as part of a regulation by reference to that document. Subdivision (c) of section 20 provides:

> An agency may "incorporate by reference" only if the following conditions are met:
>
> (1) The agency demonstrates in the final statement of reasons that it would be cumbersome, unduly expensive, or otherwise impractical to publish the document in the California Code of Regulations.
>
> (2) The agency demonstrates in the final statement of reasons that the document was made available upon request directly from the agency, or was reasonably available to the affected public from a commonly known or specified source. In cases where the document was not available from a commonly known source and could not be obtained from the agency, the regulation shall specify how a copy of the document may be obtained.
>
> (3) **The informative digest in the notice of proposed action clearly identifies the document to be incorporated by title and date of publication or issuance.** If, in accordance with Government Code section 11346.8(c), the agency changes the originally proposed regulatory action or informative digest to include the incorporation of a document by reference, the document shall be clearly identified by title and date of publication or issuance in the notice required by section 44 of these regulations.
>
> (4) **The regulation text states that the document is incorporated by reference and identifies the document by title and date of publication or issuance.** Where an authorizing California statute or other applicable law requires the adoption or enforcement of the incorporated provisions of the document as well as any subsequent amendments thereto, no specific date is required.... (Emphasis added.)

The forms identified in section 100163 have not been reviewed by OAL, noticed and made available to the public, and while they were identified by title and date the text does not indicate

that they are being incorporated by reference. Even with all the information in the record, OAL does not know what information these forms contain. These forms were not included in the rulemaking file, nor were they identified in the notice and made available to the public for comment during the public availability period.

If these forms contain regulatory content that is not specified in statute or other applicable law, then these documents must be properly incorporated by reference as required by section 20 of title 1 of the CCR, and must be added to the rulemaking record for review by OAL and made available to the public for comment for 15 days pursuant to sections 11346.8 and 11347.1 of the Government Code.

Finally, copies of documents (including forms) incorporated by reference are to be attached to each copy of the Form 400 and regulation text submitted to OAL for filing with the Secretary of State, as the documents are considered part of the regulations. See CCR, title 1, section 20, subdivision (d) for exceptions to this procedure.

4. Final Statement of Reasons – Inadequate Summary and Response to Comments

Since its inception in 1947, the APA has afforded interested persons the opportunity to participate in quasi-legislative proceedings conducted by state agencies. The APA currently requires that rulemaking agencies provide notice and at least a 45-day comment period prior to adoption of a proposed regulatory action. (Gov. Code, secs. 11346.4 and 11346.5). By requiring the state agency to summarize and respond in the record to comments received during the comment period, the Legislature has clearly indicated its intent that an agency account for all relevant comments received, and provide written evidence of its meaningful consideration of all timely, relevant input. Section 11346.9, subdivision (a)(3), of the Government Code requires that the adopting agency prepare and submit to OAL a FSOR which shall include:

> A summary of each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the proposed action has been changed to accommodate each objection or recommendation, or the reasons for making no change. This requirement applies only to objections or recommendations specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action . . . .

Furthermore, where an agency makes substantial but sufficiently-related changes to its original regulatory proposal and provides notice of the changes pursuant to Government Code section 11346.8, subdivision (c), that statutory provision specifically includes the requirement: "Any written comments received regarding the change must be responded to in the final statement of reasons required by [Government Code] section 11346.9."

In this rulemaking, EMSA received several dozen written public comments. EMSA adequately summarized and responded to most of these comments. However, several of the public comments did not receive adequate summaries and responses, some of which are identified below. This is not an exhaustive list:

a. The San Diego County EMS Agency, the Riverside Co EMS Agency and Emergency Medical Directors Association of California, in letters submitted during the 45-day comment period all stated that "Oxytocin should be optional scope." EMSA's response to these comments was, "No change. Magnesium will stay in the basic scope of practice because it is in the Federal training standards. The decision to adopt this medication is at the discretion of the LEMSA Medical Director." EMSA's response to these comments is not sufficient because it addresses magnesium when the comments were focused on oxytocin. EMSA must amend its FSOR to include a response that properly addresses these comments.

b. EMSA received the following comment from the San Joaquin County EMS Agency:

> Change Section 100137 to conform to the requirements of Health and Safety Code, Division 2.5, Section 1797.74, 1797.200, 1797.204, and 1797.208, by deleting "in the area in which the training program is headquartered." EMSA's mandate that LEMSAs oversee training programs operating outside of the LEMSA's jurisdiction is non-compliant with Division 2.5; impracticable due to limited local resources to oversee training occurring outside of the local jurisdiction; and inapposite of the State's statutory scheme ensuring medical control at the LEMSA or local level.

EMSA's response was as follows:

> Comment acknowledged. No change. This topic was discussed at the last EMSAC meeting, December 7, 2011. At the time, the LEMSA administrators were asked about this being an issue in their jurisdictions. The general consensus was that it is not occurring throughout California, only in a few jurisdictions, and the fix is going to be better communication between the LEMSA where the satellite office is headquartered and the LEMSA where the satellite office is teaching.

The commenter is asserting that the language is not consistent with relevant statutes. EMSA failed to respond to this assertion.

c. The San Bernardino Fire Department made the following comment:

> Amyl Nitrite is listed, which is used in most cases for the treatment of cyanide poisoning and occasional angina. We believe that the intent is for cyanide poisoning. If that be the case then additional drugs will need to be added to cover this subject matter such as Sodium nitrite and Sodium thiosulfate if the older cyanide kits are to be utilized. If newer kits are used then Cyanokit will need to be covered and added to the listing. Comment: Need to add cyanide kits or Cyanokit for the treatment of cyanide poisoning. It's not addressed within the basic scope, yet hundreds of civilians and public safety personnel are exposed to it routinely and treatment is lacking.

EMSA's response is "Comment acknowledged." This response is incomplete and inadequate. EMSA's response will need to accurately reflect if EMSA rejected this comment and for what reason.

Additionally, there were comments received from Ray Casillas, the San Diego EMS Authority, the Orange County EMS Authority, Los Angeles County EMS Authority, California Council Emergency Nurses Association and the International Association of Flight and Critical Care Paramedics that were neither summarized nor responded to.

For the reasons listed above, EMSA's summaries and responses to the comments are inadequate. If any subsequent revisions to the text of regulations are made in response to these comments, the changes to the regulation text should be made available for public comment for at least 15 days pursuant to Government Code section 11346.8, subdivision (c) and section 44 of title 1 of the CCR as discussed above. Additionally, EMSA must summarize and respond to any comments received during the 15-day public comment period.

5. Final Statement of Reasons – Required Statements

Pursuant to Government Code section 11346.9(a)(3), the FSOR of the rulemaking file must contain a summary of each objection or recommendation made regarding the proposed amendment of a regulation and an explanation of how the proposed action has been changed to accommodate each objection or recommendation. The rulemaking file in this action contains a separate summary and response to public comments matrix, but the matrix is not contained in the FSOR or incorporated by reference or cross-referenced by the FSOR. EMSA must tie the matrix and FSOR together.

Pursuant to Government Code section 11346.9(a)(2), the FSOR of the rulemaking file must contain a determination as to whether amendment of a regulation imposes a mandate on local agencies or school districts. Further, Government Code section 11346.9(a)(4) mandates that the FSOR include a determination with supporting information that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The FSOR in this file does not contain either determination. EMSA must add these determinations to the FSOR to satisfy these Government Code requirements.

6. Updated Informative Digest

Government Code section 11346.9, subdivision (b), requires the agency submitting a rulemaking to prepare and submit to OAL "...an updated informative digest...."

There is an Updated Informative Digest (UID) in the rulemaking record that states, "The only change that the EMSA made in the Informative Digest, of the Paramedic Regulations, is that only one new of [sic] level of EMS provider is being adopted. It is the Critical Care Transport Paramedic (CCP). This will standardize training for all CCP programs across California in all 32

local EMS systems. All other previously addressed items, in the informative digest, remain the same." This fails to update the Informative Digest found in the original notice. There were substantive changes in addition to the removal of one type of EMS provider from the originally proposed regulations. These substantive changes made to the text must be described in the UID.

7. Rulemaking Record - Missing Comments

Government Code section 11347.3(b) describes the determinations, notices, and other documents that must be included in the adopting agency's rulemaking file. Subdivision (b)(6) requires the inclusion of "[a]ll data and other factual information, any studies or reports, and written comments submitted to the agency in connection with the adoption, amendment, or repeal of the regulation." The summary and response to public comments matrix described above includes comments from a number of agencies and individuals; however, the written counterparts to these comments are not in the rulemaking file. The following list catalogs the missing comments (OAL did not attempt to decipher the acronyms provided in EMSA's matrix):

a. 45-day availability period
   i. Andrew Jeckell
   ii. Graham Pierce, Board for Critical Care Transport Paramedic Certification (BCCTPC)
b. 15-day availability period #2
   i. Rescue Fire Department (Eldorado County)
   ii. AMR
   iii. Saddleback College
   iv. San Mateo County EMS Agency
   v. Eric Rudnick, MD
   vi. Ginger Ochs, San Diego Fire-Rescue Department
   vii. Pasadena Fire Department
   viii. DRMC

8. Inadequate Statements of Mailing

EMSA included two 15-day mailing statements in the record. The requirements for conducting a 15-day availability period and the confirming mailing statement are described in CCR, title 1, section 44; however, EMSA modeled the statements after the 45-day mailing statement described in CCR, title 1, section 86. Both of EMSA's 15-day statements are therefore inadequate. EMSA must revise the 15-day mailing statements to conform to the requirements of section 44.

9. Failure to Show Consultation as Required by Statute

Health and Safety Code section 1799.50 contains a consultation requirement:

> The commission shall review and approve regulations, standards, and guidelines to be developed by the authority for implementation of this division.

Health and Safety Code section 1799 defines the commission: "The Commission on Emergency Medical Services is hereby created in the California Health and Human Services Agency."

There is nothing in the rulemaking file establishing that EMSA consulted with the Commission on Emergency Medical Services regarding this rulemaking action as required by the Health and Safety Code. Upon resubmittal of this rulemaking EMSA must provide documentation in the rulemaking file that this consultation occurred.

10. Final Regulation Text Underline and Strikeout

OAL's regulation pertaining to "Final Text: Underline and Strikeout," as set forth in CCR, title 1, section 8, describes the required format for the rulemaking agency's certified final regulation text submitted to OAL for filing with the Secretary of State. Subdivision (b) of section 8 provides:

> The final text of the regulation shall use underline or italic to accurately indicate additions to, and strikeout to accurately indicate deletions from, the California Code of Regulations. Underline or italic is not required for the adoption of a new regulation or set of regulations if the final text otherwise clearly indicates that all of the final text submitted to OAL for filing is added to the California Code of Regulations.

In connection with the final regulation text submitted to OAL for review and filing with the Secretary of State in this paramedic rulemaking, EMSA did not properly utilize a single underline and strikeout format to show additions to and deletions from the existing CCR text. OAL will discuss these inaccuracies with EMSA staff.

CONCLUSION

For the reasons set forth above, OAL has disapproved this regulatory action.

Date: September 20, 2012

Peggy J. Gibson
Senior Counsel

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