

## **Appeal to the Governor**

A rulemaking agency may appeal the following OAL decisions to the Governor:

- an OAL decision disapproving a proposed regulation,
- an OAL order repealing an emergency, or
- an OAL decision refusing to allow the readoption of an emergency regulation.

The procedure for an appeal to the Governor is addressed in Government Code section 11349.5.

## **How to Resubmit a Withdrawn or Disapproved Rulemaking Package**

A withdrawn rulemaking package may be resubmitted to OAL for review prior to the expiration of the one-year notice period.

A disapproved rulemaking package may be resubmitted to OAL within 120 days of the agency's receipt of OAL's written disapproval decision. Pursuant to Government Code section 11349.4(a), the OAL Director has discretion to extend this 120-day period based "upon a showing of good cause." If resubmitting a previously disapproved regulatory package, please consult the disapproval decision for a list of file-specific issues and requirements.

Upon resubmittal, a complete rulemaking record must be provided to OAL for review. When a rulemaking package is withdrawn or disapproved, OAL typically does not return the rulemaking record to the agency. OAL retains possession of the rulemaking record because the rulemaking record has already been reviewed by OAL. If OAL returned the rulemaking record at this point, OAL would need to re-review the complete rulemaking record upon resubmittal. Accordingly, when resubmitting a rulemaking package, the agency typically incorporates by reference all or most of the rulemaking record as originally submitted. (Cal. Code Regs., tit. 1, sec. 84.) If OAL returned the rulemaking record to the agency following withdrawal or disapproval, the complete rulemaking record must accompany the resubmitted rulemaking package.

When resubmitting a withdrawn or disapproved rulemaking package, a new Form 400 must be attached to the final text of the regulations illustrating changes to the text currently printed in the CCR.

- The Form 400 must include any previous related OAL regulatory action number(s) in field B.1b.
- The agency must check either the "Resubmittal of disapproved or withdrawn nonemergency filing" box or the "Resubmittal of disapproved or withdrawn emergency filing" box in field B.3.
- If the agency conducted one or more 15-day public comment periods, field B.4 must include the dates of the 15-day public comment period(s).

For assistance with the resubmittal of a withdrawn or disapproved rulemaking package, please contact the reviewing attorney who authored the disapproval decision or the Reference Attorney.