

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 72]

### Sewage Enforcement Officers Application Requirements for Certification

The Environmental Quality Board (Board) proposes to amend Chapter 72 (relating to administration of sewage facilities permitting program). The amendment is being proposed to clarify requirements relating to applications for certification of sewage enforcement officers (SEOs) outlined in § 72.54 (relating to applications for certification) to read as set forth in Annex A.

This notice is given under Board order at its meeting of December 15, 1998.

#### A. *Effective Date*

This proposed amendment will go into effect upon publication in the *Pennsylvania Bulletin* as final rule-making.

#### B. *Contact Persons*

For further information, contact Glenn Maurer, Director, Bureau of Water Quality Protection, 11th Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8465, Harrisburg, PA 17105-8465 (717) 787-2666, or William S. Cumings, Jr., Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section H of this Preamble. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the DEP Web site at <http://www.dep.state.pa.us>.

#### C. *Statutory Authority*

The proposed rulemaking is made under the authority of section 9 of the Pennsylvania Sewage Facilities Act (act) (35 P. S. § 750.9) and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510.20).

#### D. *Background, Purpose and Summary of Proposed Regulatory Revision*

This proposed amendment is intended to clarify the requirements of § 72.54(a) relating to application requirements for persons who submit applications for certification as SEOs within this Commonwealth. Section 8(b) of the act (35 P. S. § 750.8) provides that local agencies, which include counties, municipalities and multimunicipal local agencies, are required to "employ an adequate number of sewage enforcement officers or contract with individuals, firms or corporations to adequately perform the services of sewage enforcement officers to administer the [permitting requirements] of this act . . . in accordance with the rules and regulations of the

department. No person shall be employed or contracted as a sewage enforcement officer unless said person has been certified by the department pursuant to standards set by the Environmental Quality Board."

The State Board for Certification of Sewage Enforcement Officers (Certification Board), an entity of the Department of Environmental Protection (Department) established under section 11 of the act (35 P. S. § 750.11), is responsible for the administration of examinations for the certification of sewage enforcement officers. The Department and the Certification Board have determined that it is necessary to amend § 72.54 to provide a more streamlined procedure for the submission of certain documentation to the Board by an applicant for certification as a sewage enforcement officer.

Section 72.54(a) requires that a candidate for certification as a SEO successfully complete precertification training courses prior to the certification examination. The Department is responsible for the administration of training programs for sewage enforcement officers, including precertification training. See 25 Pa. Code § 72.43(d). Beginning in April 1999, the precertification training will be provided to candidates for certification shortly before the scheduled examinations. Under existing § 72.54(a), applicants for certification are required to submit documentation of the successful completion of precertification training to the Board at least 40 days prior to the scheduled examination. Since the precertification training is intended to be provided to applicants less than 40 days prior to the scheduled examination, a conflict with the existing regulation will be created. Accordingly, the Department and the Certification Board believe it is necessary to propose an amendment to § 72.54(a) which will change the deadline for the submission of documentation of the successful completion of required precertification training from 40 days prior to the examination to "no later than the commencement of the scheduled examination for which the precertification training was held." Until this proposed amendment is implemented, it will not be possible to link certification examinations with the precertification training courses.

The proposed amendment and associated SEO training and certification improvements have been discussed with the Sewage Advisory Committee and an advisory group to the PA State Association of Township Supervisors (PSATS) representing the SEO community and local government. PSATS is assisting the Department in administering SEO training. These advisory groups have indicated support for this proposed amendment toward allowing full implementation of the SEO training and certification improvements.

#### E. *Benefits, Costs and Compliance*

Executive Order 1996-1 provides for a cost/benefit analysis of a proposed amendment.

##### *Benefits*

Applicants for certification as SEOs will benefit from the proposed amendment because they will not need to submit documentation of the successful prerequisite training for certification until the commencement of the scheduled examinations, which will be held shortly after the conclusion of the training course.

*Costs*

There are no additional costs to the Commonwealth, its citizens or applicants for certification as SEOs associated with this proposal.

*Compliance Costs*

The proposed amendment is not expected to impose any additional compliance costs on the regulated community.

*F. Sunset Review*

This proposed amendment will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

*G. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the proposed rulemaking on February 9, 1999, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendment, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendment, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by the Department, the Governor and the General Assembly before final publication of the amendment.

*H. Public Comments*

*Written Comments*—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendment to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail; Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by March 22, 1999. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by March 22, 1999. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

*Electronic Comments*—Comments may be submitted electronically to the Board at RegComments@A1.dep.state.pa.us and must also be received by the Board by March 22, 1999. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

JAMES M. SEIF,  
*Chairperson*

**Fiscal Note:** 7-344. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 25. ENVIRONMENTAL PROTECTION

## PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Subpart C. PROTECTION OF NATURAL RESOURCES

## ARTICLE I. LAND RESOURCES

## CHAPTER 72. ADMINISTRATION OF SEWAGE FACILITIES PERMITTING PROGRAM

## Subchapter D. CERTIFICATION OF SEWAGE ENFORCEMENT OFFICERS

## § 72.54. Applications for certification.

(a) Correctly completed applications[ , **documentation of the successful completion of required precertification training courses** ] and an application fee of \$25 shall be received by the Board at least 40 days prior to the scheduled examinations. **In addition, the applicant shall provide documentation of the successful completion of required precertification training courses to the Board no later than the commencement of the scheduled examination for which the precertification training course was held.**

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[Pa.B. Doc. No. 99-266. Filed for public inspection February 19, 1999, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

[1 PA. CODE CHS. 101, 201, 301, 303, 305, 307,  
309, 311, 313 AND 315]

### Implementation of the Regulatory Review Act

The Independent Regulatory Review Commission (IRRC) proposes to amend its regulations in 1 Pa. Code by deleting Chapters 101 and 201 in their entirety and by adding Chapters 301, 303, 305, 307, 309, 311 and 315.

These proposed amendments will delete IRRC's regulations promulgated under the Regulatory Review Act as originally enacted, the act of June 25, 1982 (P. L. 633, No. 181). Because the subsequent reenactment and amendments drastically changed the structure of the review process, the existing regulations are largely inapplicable and unenforceable. For this reason, IRRC is deleting them in their entirety rather than amending them.

Embargoed material is covered in these proposed amendments. Therefore, IRRC is also deleting in its entirety the Statement of Policy in Chapter 201 (relating to embargoed material).

*Statutory Authority*

These amendments are proposed under the authority contained in section 11 of the Regulatory Review Act (act) (71 P. S. § 745.11).

### *Background*

These proposed amendments will implement the act of June 25, 1997 (P. L. 252, No. 24) (Act 24) amendments to the act. These proposed amendments respond to administrative and procedural concerns that have continually surfaced since the previous revision of the act in 1989. The legislative intent of the act and the mission of IRRC remain the same. However, the process has been streamlined and made more flexible, saving both the regulators and the regulated time and money.

The major changes brought about by Act 24 amendments are as follows:

- Define terms that are widely used in the review process to insure their consistent application.
- Eliminate the responsibility of agencies to send copies or summaries of a final-form regulation to all parties who commented on the proposed regulation. Now agencies are only obliged to send this material to commentators who specifically request it.
- Allow the agency to toll the review process to make changes recommended by IRRC or the standing committee of the House or Senate designated to review the agency's regulations (committee).
- Reduce the blackout period from 72 hours to 48 hours.
- Establish uniform procedures for the submittal and review of regulations and reports immediately prior to and after the adjournment sine die of the General Assembly or the expiration of the legislative session in even numbered years.
- Modify the time line for IRRC review of regulations to insure that IRRC has at least 10 days to consider committee comments and action.
- Restrict IRRC from reviewing an existing regulation that has been in effect for less than 3 years.

### *Purpose*

The purpose of this proposal is twofold. First, it will delete obsolete regulations designed to implement the original version of the act that is no longer in effect. Second, it will implement the latest revision to the act.

### *Summary of Amendments*

Chapter 301 (relating to general provisions) sets forth the general provisions relating to IRRC's operation.

- Section 301.1 (relating to definitions) cross references terms defined in the act and defines additional commonly used terms and phrases to insure their consistent application. Terms and phrases defined in this section include: "blackout period," "deemed approved," "delivery," "embargoed material," "end of legislative session," "existing regulation," "face sheet," "final regulation," "form letters," "LRB," "order," "public meeting," "regulatory analysis form," "regulatory review criteria," "staff review meeting," "Sunshine Act" and "transmittal sheet."

- Section 301.2 (relating to regulation files) implements section 5.1(k) of the act (71 P. S. § 745.5.a(k)), which provides that IRRC shall retain public records on regulations for 4 years after promulgation. This provision: (1) clarifies IRRC's timetable for retaining files of regulations which are withdrawn or deemed withdrawn, or final regulations that have not been promulgated; (2) lists the materials that are retained in the public files; and (3) provides that after IRRC takes final action on a regula-

tion, the file will be closed, and only documents addressed to IRRC will be included in a closed file.

- Section 301.3 (relating to determination of date and time of delivery) establishes how IRRC determines and confirms the date and time of delivery of documents.

- Section 301.4 (relating to expiration of time period for delivery) establishes how IRRC will determine when the committee and IRRC review periods expire. Generally, if the allotted time ends on a day when IRRC or committee is closed because of a holiday, weekend or an emergency, the review period is extended to the first business day thereafter.

- Section 301.5 (relating to expiration of committee and Commission review periods) provides that the person receiving a regulation on behalf of a committee or the Attorney General must sign with a full name and not initials. This provision is designed to prevent confusion as to whether a regulation was properly delivered.

- Section 301.6 (relating to signature on transmittal sheet) provides direction to the agency when a regulation is inadvertently delivered to the wrong committee.

- Section 301.7 (relating to delivery of a regulation to the wrong committee) describes the effects of a withdrawal or deemed withdrawal of a regulation.

- Section 301.8 (relating to withdrawal of a regulation) requires an agency to designate a contact person to receive documents transmitted by IRRC.

- Section 301.9 (relating to agency contact person) implements section 11(c) of the act (71 P. S. § 745.11(c)). It establishes when and how IRRC may conduct a public meeting.

Chapter 303 (relating to meetings of the Commission) describes how IRRC meetings will be conducted.

- Section 303.1 (relating to notice of Commission staff review and public meetings; participation; minutes) provides that IRRC will: (1) give notice of and conduct its meetings in accordance with the Sunshine Act (65 P. S. §§ 271—286); and (2) notify an affected agency and committees of a rescheduled meeting, in accordance with section 4(h) of the act (71 P. S. § 745.4(h)).

- Section 303.2 (relating to blackout period) outlines IRRC's handling of documents received during the blackout period.

- Section 303.3 (relating to quorum) implements section 4(i) of the act. It provides that three members of IRRC must be physically present to constitute a quorum. Once a quorum is present, the remaining members of IRRC may participate and vote by teleconference or proxy.

- Section 303.4 (relating to proxy voting) establishes the procedures for proxy voting. It provides that the proxy shall be: (1) in writing, signed by the Commissioner, and addressed to the Chairperson at IRRC's office address; and (2) delivered by first class mail or facsimile, prior to the commencement of the public meeting. The Commissioner must file a separate proxy for each vote. The chairperson or a delegate will present the proxy at the time of the vote on the regulation, and the proxy will be recorded as the Commissioner's vote.

Chapter 305 (relating to delivery of a proposed regulation) implements section 5 of the act (71 P. S. § 745.5). It outlines the procedures for delivery and review of proposed regulations.

- Section 305.1 (relating to delivery of a proposed regulation) provides that an agency shall deliver a proposed regulation on the same date to IRRC, committees and LRB, lists the material which must accompany the regulation, and incorporates the uniform sine die provisions in section 5(f) of the act if delivery is precluded due to the end of the legislative session.

- Section 305.2 (relating to delivery of comments and information by an agency) outlines the agency's responsibility for delivering comments it has received to IRRC and committees.

- Section 305.3 (relating to Commission review period) provides that IRRC has 10 days after the expiration of the committee review period to complete its review of the regulation.

- Section 305.4 (relating to Commission comments on a proposed regulation) outlines the procedure for IRRC delivery and agency receipt of IRRC's comments. It provides that if IRRC has not objected to a provision in the proposed regulation, subsequent disapproval of the final-form regulation may only be based on changes made to the proposed regulation, or recommendations from a committee.

Chapter 307 (relating to procedures for delivery and review of final regulations) implements section 5.1 of the act. It outlines the procedures for delivery of final-form and final-omitted regulations.

- Section 307.1 (relating to two-year period for promulgation) requires an agency to deliver a final-form regulation within 2 years of the close of the public comment period. If an agency does not meet this deadline, the regulation is deemed withdrawn.

- Sections 307.2 and 307.3 (relating to delivery of a final-form regulation; and delivery of a final-omitted regulation) provide for the delivery of final-form regulations, lists the materials which must accompany the regulation, and incorporates uniform sine die provisions in section 5.1(f) of the act, if delivery is precluded due to the end of the legislative session.

- Section 307.4 (relating to tolling the review period) outlines the procedures to be followed by an agency and IRRC if the agency tolls the review period. It also establishes how IRRC calculates the resumption of the review period after the tolled regulation has been delivered.

- Section 307.5 (relating to procedure for tolling) provides that: (1) IRRC has 10 days for review after the expiration of the committee review period; (2) IRRC's review period may be extended if Commission action is precluded due to lack of a quorum; and (3) IRRC will consider all comments received in determining whether a regulation meets the regulatory review criteria.

Chapter 309 (relating to action on regulations) implements section 6 of the act (71 P. S. § 745.6). It outlines the actions IRRC and committees may take on regulations, and the results of specific actions.

- Section 309.1 (relating to Commission and committee action on a final regulation) provides that if IRRC and committees approve or are deemed to have approved a regulation, the agency may proceed with promulgation. This provision also outlines what must occur in order for a regulation to be deemed approved.

- Section 309.2 (relating to Commission approval/committee disapproval of a final regulation) provides that if IRRC approves a regulation, which a committee has disapproved, IRRC must notify the disapproving committee within 2 business days of its approval.

Chapter 311 (relating to procedures for review of disapproved final regulations) outlines the procedures for subsequent review of disapproved final-form and final-omitted regulations.

- Section 311.1 (relating to Commission disapproval of a final regulation) implements section 6(a) and (b) of the act. It provides that IRRC's disapproval order will: (1) specify the review criteria which the regulation failed to meet; (2) be delivered to the LRB, committees and agency; and (3) bar the agency from promulgating the regulation until subsequent IRRC and committee review is completed.

- Section 311.2 (relating to response by an agency to Commission disapproval) implements section 7(a) and (a.1) of the act (71 P. S. § 745.7(a) and (a.1)). It requires the agency to notify IRRC and committees within 7 days whether the agency will withdraw, resubmit without revision or revise a disapproved regulation. This provision cross references section 7(a.1) of the act if the agency is precluded from delivering its notification because of the end of the legislative session.

- Section 311.3 (relating to subsequent review of regulation without revisions or modifications) implements section 7(b) of the act. It provides for: (1) agency delivery of a report to the committees if the agency decides to resubmit a disapproved regulation without revision; (2) materials the report must contain; (3) the time period for committee review of the report; and (4) a cross reference to section 7(d) of the act, which outlines the concurrent resolution process.

- Section 311.4 (relating to delivery of regulation with revisions) implements section 7(c) of the act. It provides for: (1) agency delivery of a report to IRRC and committees if the agency decides to revise and resubmit the regulation; (2) material that the report must contain; (3) the time period for IRRC and committee review of the report; and (4) a cross reference to section 7(d) of the act, which outlines the concurrent resolution process.

Chapter 313 (relating to emergency certified regulations) implements section 6(b) the act. It outlines the procedures for the delivery and review of emergency certified regulations.

- Section 313.1 (relating to general) describes when and how an agency may submit a final-form or final-omitted regulation certified as an emergency by either the Governor or Attorney General.

- Section 313.2 (relating to review of an emergency certified final regulation) establishes that an emergency certified regulation takes effect immediately upon publication in the *Pennsylvania Bulletin*. If disapproved, the regulation will be rescinded after 120 days or upon final disapproval under section 7(d) of the act, whichever occurs later. This provision also incorporates the statutory and regulatory tolling provisions.

Chapter 315 (relating to existing regulations and unpublished documents) outlines the procedures for review of existing regulations and statements of policy.

- Section 315.1 (relating to review of an existing regulation) implements section 8.1 of the act (71 P. S.

§ 745.8a). It provides that: (1) IRRC may review an existing regulation which has been in effect for at least 3 years; (2) if warranted, IRRC will notify the agency of issues raised and request a response; and (3) after a review of all pertinent material, IRRC will issue a report to the agency, committees, Governor and Attorney General setting forth its findings and recommendations.

- Section 315.2 (relating to review of an unpublished document) implements section 7.1 of the act (71 P. S. § 745.7a). It provides that if IRRC finds a published or an unpublished document should be promulgated as a regulation, it may present the matter to the Joint Committee on Documents.

*Fiscal Impact and Paperwork Requirements*

These proposed amendments do not create a negative fiscal impact or an increased paperwork requirement. In fact, allowance for electronic and facsimile transmission of documents will reduce paperwork.

*Contact Person*

These proposed amendments are published on IRRC's website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). Written comments, suggestions or objections will be accepted for 45 days after publication of these proposed amendments in the *Pennsylvania Bulletin*. IRRC invites comments from the General Assembly, executive and independent agencies and all interested parties. Comments and questions may be referred to Mary S. Wyatte, Chief Counsel, Independent Regulatory Review Commission, 333 Market Street, 14th Floor, Harrisburg, PA 17101, (717) 783-5417.

Comments may also be faxed to (717) 783-2664 or e-mailed to [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us).

Alternative means of providing public comments and alternative formats of the proposed amendments, such as large print or cassette tape, may be made available to persons with disabilities upon request by calling Kristine M. Shomper at (717) 783-5417.

*Regulatory Review*

Under sections 5(a) and 11(a) of the act, IRRC submitted a copy of these proposed amendments on February 9, 1999, to the Joint Committee on Documents, the House State Government Committee and Senate Rules and Executive Nominations Committee. In addition to submitting the proposed amendments, IRRC has provided the Joint Committee on Documents and the committees with a copy of a completed Regulatory Analysis Form. A copy of this material is available to the public upon request.

If the Committees have any objection to these proposed amendments, they will notify IRRC by 20 days after the expiration of the public comment period. If the Joint Committee on Documents has any objections, it will notify IRRC by 10 days after the close of the Committees' review period. The notification shall identify any portion of the regulation which does not meet the regulatory review criteria and specify the regulatory review criteria which has not been met by that portion. The Regulatory Review Act specifies detailed procedures for review by the Joint Committee on Documents, Governor and General Assembly prior to promulgation of the regulations.

JOHN R. MCGINLEY, Jr.,  
Chairperson

**Fiscal Note:** 70-6. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 1. GENERAL PROVISIONS**

**PART III. INDEPENDENT REGULATORY REVIEW COMMISSION**

**CHAPTER 101. [ PRACTICE AND PROCEDURE ] (Reserved)**

**§§ 101.1—101.11. (Reserved).**

**CHAPTER 201. [ EMBARGOED MATERIAL—STATEMENT OF POLICY ] (Reserved)**

**§§ 201.1—201.3. (Reserved).**

**CHAPTER 301. GENERAL PROVISIONS**

- Sec.
- 301.1. Definitions.
- 301.2. Regulation files.
- 301.3. Determination of date and time of delivery.
- 301.4. Expiration of time period for delivery.
- 301.5. Expiration of committee and Commission review periods.
- 301.6. Signature on transmittal sheet.
- 301.7. Delivery of a regulation to the wrong committee.
- 301.8. Withdrawal of a regulation.
- 301.9. Agency contact person.
- 301.10. Procedure for public hearings.

**§ 301.1. Definitions.**

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Regulatory Review Act (71 P. S. §§ 745.1—745.15).

*Agency*—As defined in section 3 of the act (71 P. S. § 745.3).

*Blackout period*—The 48-hour period immediately preceding the call to order of the staff review meeting.

*CDL—Commonwealth Documents Law*—As defined in section 3 of the act.

*Commission*—As defined in section 3 of the act.

*Committee*—As defined in section 3 of the act.

*Commonwealth Attorneys Act*—As defined in section 3 of the act.

*Commonwealth Documents Law*—As defined in section 3 of the act.

*Deemed approved*—The approval of a regulation by operation of law when the committees or the Commission have not approved or disapproved the regulation by majority vote.

*Delivery*—

(i) The deposit of regulations, correspondence or other documents with the Commission through postal or other delivery service, hand delivery, electronic mail (e-mail) or facsimile.

(ii) The deposit of orders, comments, correspondence or other documents with agencies, committees or other parties through postal or other delivery service, hand delivery, e-mail or facsimile.

*Embargoed material*—Documents pertaining to a regulation on the agenda for the Commission's public meeting delivered during the blackout period by any person or entity, except documents from the committee or a member of the committee.

*End of legislative session*—The adjournment sine die or the expiration of the legislative session in an even-numbered year.

*Existing regulation*—An enforceable regulation codified in the *Pennsylvania Code*.

*Face sheet*—A form accompanying a regulation for filing documents with the LRB, completed in accordance with the regulations of the Joint Committee on Documents. See 1 Pa. Code § 13.12 (relating to requirements as to form and size).

*Final regulation*—A final-form or final-omitted regulation.

*Final-form regulation*—As defined in section 3 of the act.

*Final-omitted regulation*—As defined in section 3 of the act.

*Form letters*—Letters which contain verbatim text.

*LRB*—The Legislative Reference Bureau of the Commonwealth.

*Order*—The statement of the Commission's findings and action on a final regulation, which is not subject to appeal.

*Promulgate*—As defined in section 3 of the act.

*Proposed regulation*—As defined in section 3 of the act.

*Public meeting*—The public session on a scheduled meeting day at which the Commission takes formal action on a regulation.

*Regulation*—

(i) A rule or regulation, or order in the nature of a rule or regulation, promulgated by an agency under statutory authority in the administration of any statute administered by or relating to the agency or amending, revising or otherwise altering the terms and provisions of an existing regulation, or prescribing the practice and procedure before the agency.

(ii) The term also includes actions of the Liquor Control Board which have an effect on the discount rate for retail licenses.

(iii) The term does not include a proclamation, executive order, directive or similar document issued by the Governor but does include a regulation which may be promulgated by an agency, only with the approval of the Governor.

*Regulatory analysis form*—The form accompanying a regulation that contains the information required under section 5(a) of the act (71 P. S. § 745.5(a)).

*Regulatory review criteria*—The criteria delineated in section 5.1(h) and (i) of the act (71 P. S. § 745.5a(h) and (i)).

*Staff review meeting*—The public session on a scheduled meeting day at which the Commission staff briefs the Commissioners on the regulations scheduled for action at the public meeting.

*Sunshine Act*—65 P. S. §§ 271—286.

*Transmittal sheet*—The form accompanying a regulation which lists the regulation number, the title of the regulation, the agency promulgating the regulation, the type of regulation, the date of delivery and the signatures of the persons receiving the regulation on behalf of the committees, the Commission, the Attorney General (for final-omitted regulations) and the LRB.

*Withdrawal*—As defined in section 3 of the act.

### § 301.2. Regulation files.

(a) The Commission will retain regulation files in accordance with the following schedule:

(1) *Promulgated regulations*. Four years after the date of promulgation.

(2) *Withdrawn or deemed withdrawn regulations*. Four years after the date of delivery of the proposed or final-omitted regulation to the Commission.

(3) *Final regulations which are not promulgated*. Four years after the date of delivery to the Commission.

(b) The files shall include the following materials:

(1) The original regulatory analysis form and the original regulation.

(2) Documents received, including comments, correspondence from the Attorney General, correspondence from the agency, transcripts and manuals.

(3) Subpoenas.

(4) Correspondence from the Commission.

(5) Commission comments.

(6) Commission orders.

(c) After the Commission takes final action on a regulation under sections 6(a) or 7(c) of the act (71 P. S. §§ 745.6(a) and under 745.7(c)), the Commission's regulation file will be closed. Only correspondence and documents addressed to the Commission or directed to the Commission's attention will be added to a closed regulation file.

(d) Upon request, a person may examine or copy the materials contained in the regulation files during the Commission's normal business hours.

(e) The Commission may charge a reasonable fee for copies of material contained in a regulation file.

### § 301.3. Determination of date and time of delivery.

(a) The Commission will determine the date and time of delivery of documents as follows:

(1) *E-mail*. As indicated on the Commission's computer system.

(2) *Fax*. As indicated on the transmittal report generated by the Commission's facsimile machine.

(3) *Postal or other delivery service*. As indicated on the Commission's time and date stamp.

(4) *Hand delivery*. As indicated on the Commission's time and date stamp.

(b) If the sender requests confirmation of delivery of a hand-carried document, the sender shall include an additional copy of the first page. The Commission will stamp the copy with the date and time of delivery and return it to the sender. If the sender requests confirmation of a document delivered through the postal or another delivery service, the sender shall include an additional copy of the first page and a stamped, self-addressed envelope. The Commission will stamp the additional copy with the date and time of delivery and mail it to the sender.

(c) If the sender requests confirmation of delivery of an e-mailed or faxed document, the Commission will fax or e-mail confirmation of delivery to the sender.

(d) The sender shall have the responsibility to obtain confirmation that a document was delivered prior to the blackout period.

(e) The Commission will stamp the date and time of delivery of a regulation on the transmittal sheet and on the regulatory analysis form.

### § 301.4. Expiration of time period for delivery.

(a) The time period for an agency to deliver a regulation or report to the Commission or a committee will

expire on the first business day after the expiration day established in the act or this part if that day is one of the following:

- (1) A legal holiday.
  - (2) Declared a holiday by the Office of Administration.
  - (3) A day on which Commonwealth offices located in Harrisburg are closed due to emergency circumstances.
  - (4) A day on which the staff offices of the Senate or House of Representatives are officially closed.
  - (5) A Saturday or Sunday.
- (b) A part-day holiday is considered a normal business day and not a day that would require the extension of a time period for delivery.

**§ 301.5. Expiration of committee and Commission review periods.**

(a) A committee review period will expire the first business day after the expiration day established under the act or this part if that day is one of the following:

- (1) A legal holiday.
- (2) Declared a holiday by the Office of Administration.
- (3) A day on which Commonwealth offices located in Harrisburg are closed due to emergency circumstances.
- (4) A day on which the staff offices of the Senate or House of Representatives are officially closed.
- (5) A Saturday or Sunday.

(b) The Commission review period will expire on the first business day after the expiration day established under the act or this part if that day is one of the following:

- (1) A legal holiday.
- (2) Declared a holiday by the Office of Administration.
- (3) A day on which Commonwealth offices located in Harrisburg are closed due to emergency circumstances.
- (4) A Saturday or Sunday.

(c) A part-day holiday is considered a normal business day and not a day that would require the extension of a committee or Commission review period.

**§ 301.6. Signature on transmittal sheet.**

The person receiving a regulation on behalf of a committee chairperson, the Attorney General or the LRB shall sign the transmittal sheet with his full name. The Commission will not accept initials to indicate delivery of a regulation.

**§ 301.7. Delivery of a regulation to the wrong committee.**

(a) Immediately upon discovery that the agency has delivered a regulation to a committee other than a committee as defined in § 301.1 (relating to definitions), the agency shall deliver the regulation to the designated committee.

(b) The agency shall deliver a regulation to the designated committee in accordance with the following:

- (1) A proposed regulation. See § 305.1 (relating to delivery of a proposed regulation).
- (2) A final-form regulation. See § 307.2 (relating to delivery of a final-form regulation).
- (3) A final-omitted regulation. See § 307.3 (relating to delivery of a final-omitted regulation).

(c) The agency shall deliver the signed transmittal sheet to the Commission on the same date that the agency delivers the regulation to the designated committee.

(d) With the delivery of a proposed regulation to the designated committee, the agency shall include all comments received since the beginning of the public comment period.

(e) The review period of the designated committee will begin as follows:

- (1) For proposed regulations, the day after the close of the public comment period or the day after delivery, whichever is later.
- (2) For final regulations, the day after delivery.

**§ 301.8. Withdrawal of a regulation.**

(a) If an agency withdraws or is deemed to have withdrawn a regulation, the Commission and the committees will cease their review of the regulation and will not take further action on the regulation.

(b) If the agency withdraws a proposed regulation, but subsequently desires to proceed with promulgation, the agency shall deliver a new proposed regulation in accordance with § 305.1 (relating to delivery of a proposed regulation).

(c) If the agency withdraws a final-form regulation after delivery to the Commission, but subsequently desires to proceed with promulgation, the agency may deliver a new final-form regulation in accordance with § 307.2 (relating to delivery of a final-form regulation), within 2 years from the close of the public comment period.

(d) If the agency desires to proceed with promulgation of a withdrawn regulation but does not submit a new final-form regulation within 2 years from the close of the public comment period, the agency shall deliver a new proposed regulation.

**§ 301.9. Agency contact person.**

An agency shall notify the Commission, in writing, of the name, title, address, telephone number and facsimile number of the agency representative designated to receive comments, orders, embargoed material and other documents, which the Commission delivers by facsimile or e-mail to the agency. Delivery is deemed made if sent by facsimile or e-mail to the designated agency representative.

**§ 301.10. Procedure for public hearings.**

(a) The Commission may schedule public hearings on matters that are related to a proposed, a final or an existing regulation under review.

(b) Notice of a public hearing will be published in accordance with the Sunshine Act. The notice will include the date and time of the public hearing, the subject matter of the public hearing and the address where the public hearing will take place.

(c) The chairperson will designate a hearing officer to preside at the public hearing. The hearing officer will be charged with preserving order during the public hearing. The hearing officer may determine the agenda, the order of commentators and the time allotted to each commentator.

(d) When participating at a public hearing, commentators shall bring 10 written copies of their comments and supporting documents to the Commission.

**CHAPTER 303. MEETINGS OF THE COMMISSION**

Sec.	
303.1	Notice of Commission staff review and public meetings; participation; minutes.
303.2	Blackout period.
303.3	Quorum.
303.4	Proxy voting.

**§ 303.1. Notice of Commission staff review and public meetings; participation; minutes.**

(a) The Commission will give notice of its staff review and public meetings in accordance with the Sunshine Act.

(b) The Commission will deliver notice of a rescheduled staff review or public meeting to the committees and affected agencies at least 10-calendar days prior to the meeting date.

(c) Commission staff review and public meetings are open to the public. Participation in meetings is at the discretion of the chairperson.

(d) Minutes of staff review and public meetings will be available for public inspection at the Commission office during regular business hours.

**§ 303.2. Blackout period.**

(a) During the blackout period, Commissioners and Commission staff will not communicate with any party, except a committee, committee member or committee staff person, regarding the substance of a regulation on the Commission's public meeting agenda.

(b) Comments and documents delivered by any party, except a committee, committee member or committee staff person, during the blackout period will be embargoed.

(c) Within 24 hours of receipt, the Commission will deliver embargoed material and committee comments received during the blackout period to the agency.

(d) Upon the call to order of the staff review meeting, or public meeting if a staff review meeting is not held, embargoed material will be distributed to the Commissioners and Commission staff assigned to review the regulation.

**§ 303.3. Quorum.**

(a) For purposes of conducting official business, three Commissioners must be physically present to constitute a quorum.

(b) Once a quorum is established, Commissioners may participate in meetings and vote on regulations by teleconference or proxy.

**§ 303.4. Proxy voting.**

(a) A Commissioner may vote by proxy on any issue before the Commission, including the approval or disapproval of a regulation, if the following conditions are met:

(1) The proxy shall be in writing, signed by the Commissioner, and addressed to the Chairperson at the Commission's office address.

(2) The Commissioner will deliver the proxy to the Commission, either by first-class mail or facsimile, prior to the commencement of the public meeting.

(3) The Commissioner will deliver a separate proxy for each vote.

(b) The Chairperson or a delegate will present the proxy at the public meeting at the time of the Commission vote.

(c) The proxy shall be recorded as the Commissioner's vote.

**CHAPTER 305. PROCEDURES FOR DELIVERY AND REVIEW OF PROPOSED REGULATIONS**

Sec.	
305.1	Delivery of a proposed regulation.
305.2	Delivery of comments and information by an agency.
305.3	Commission review period.
305.4	Commission comments on a proposed regulation.

**§ 305.1. Delivery of a proposed regulation.**

(a) The agency shall deliver a proposed regulation to the LRB, the committees and the Commission on the same date. Delivery of the regulation shall be made to the Commission after delivery to the committees.

(b) The agency shall include the following material with the regulation:

(1) A completed regulatory analysis form.

(2) A face sheet signed by the Office of Attorney General and the Office of General Counsel or chief counsel of an independent agency.

(3) A transmittal sheet signed by the committees.

(4) A statement from the agency head or designee or Office of General Counsel that the regulation was delivered to the committees in accordance with section 5(a) of the act (71 P. S. § 745.5(a)).

(5) The preamble and the text of the regulation set forth in an Annex A.

(c) If the agency is prevented from delivering the regulation to the Commission and the committees because of the end of the legislative session, the agency shall deliver the regulation in accordance with section 5(f) of the act.

**§ 305.2. Delivery of comments and information by an agency.**

(a) From the date of delivery of the proposed regulation until the expiration of the Commission's review period, the agency shall deliver to the Commission and committees copies of the following material relating to the regulation:

(1) The comments received.

(2) Reports from advisory groups.

(3) Public notices or announcements regarding solicitation of public comments and information regarding meetings the agency has held or will hold.

(b) The agency shall deliver copies of comments to the Commission within 5 days of its receipt of the comments.

(c) The agency shall deliver one copy of form letters received, and indicate the number of copies of that form letter it has received as of the date of delivery.

**§ 305.3. Commission review period.**

The Commission has 10 days after the expiration of the committee review period to review the regulation and deliver its comments to the agency. The Commission will calculate its review period as beginning the day after the expiration of the committee review period.

**§ 305.4. Commission comments on a proposed regulation.**

(a) The Commission will deliver its comments on a proposed regulation to the agency on or before the date the comments are due.



(b) To verify receipt of the comments by hand delivery, the agency staff person shall sign the Commission's receipt card. To verify receipt of the comments by facsimile, the agency staff person shall sign the cover sheet and send it back to the Commission by facsimile. To verify receipt of the comments by e-mail, the agency staff person shall send an e-mail message to the Commission indicating receipt of the comments.

(c) The comments shall contain objections to the regulation, specifying the regulatory review criteria that the regulation has not met. The comments may also contain recommendations for amendment of the regulation in final-form.

(d) If the Commission or a committee does not object to a provision in the proposed regulation by the expiration of its review period, and if the agency has not changed that provision in the final-form regulation, the Commission will be deemed to have approved that provision.

(e) The Commission may disapprove the final-form regulation only on the basis of one or more of the following:

- (1) Objections which the Commission raised in its comments on the proposed regulation.
- (2) Changes which the agency made to provisions in the final-form regulation.
- (3) Recommendations, comments or objections of a committee relating to the regulation.

**CHAPTER 307. PROCEDURES FOR DELIVERY AND REVIEW OF FINAL REGULATIONS**

Sec.	
307.1.	Two-year period for promulgation.
307.2.	Delivery of a final-form regulation.
307.3.	Delivery of a final-omitted regulation.
307.4.	Tolling the review period.
307.5.	Procedure for tolling.
307.6.	Commission review of a final regulation.

**§ 307.1. Two-year period for promulgation.**

If an agency does not deliver, or withdraws and does not resubmit, a final-form regulation within 2 years of the close of the public comment period for the proposed regulation, the agency is deemed to have withdrawn the regulation.

**§ 307.2. Delivery of a final-form regulation.**

(a) The agency shall deliver a final-form regulation to the committees and the Commission on the same date. Delivery shall be made to the Commission after delivery to the committees.

(b) On the same date that the agency submits the regulation to the committees and the Commission, the agency shall mail a copy of the regulation or a summary of the changes from the proposed regulation to those commentators who requested information on the final-form regulation.

(c) The agency shall include the following documents with the regulation:

- (1) A completed regulatory analysis form relating to the final-form regulation.
- (2) A face sheet signed by the Office of General Counsel or chief counsel of an independent agency.
- (3) A transmittal sheet signed by the committees.
- (4) A statement from the agency head or designee or Office of General Counsel that the regulation was delivered to the committees in accordance with section 5.1(a) of the act (71 P. S. § 745.5a(a)).

(5) The agency's response to the comments received.

(6) The preamble.

(7) The text of the final-form regulation the agency intends to adopt indicating any changes made from the proposed regulation using the following format:

(i) Brackets to indicate language proposed to be deleted from the existing regulation.

(ii) Underscoring to indicate the new language proposed to be added to the existing regulation.

(iii) Strike-out type to indicate the new language in the proposed regulation which is deleted in the final-form.

(iv) Capital letters to indicate the new language in the final-form regulation which was not included in the proposed regulation.

(8) The names and addresses of commentators who requested additional information on the final-form regulation.

(d) If the committees are prevented from completing their review because of the end of the legislative session, the agency shall deliver the regulation in accordance with section 5.1(f) of the act.

**§ 307.3. Delivery of a final-omitted regulation.**

(a) The agency shall deliver a final-omitted regulation to the committees, the Attorney General and the Commission on the same date. Delivery shall be made to the Commission last, after delivery to the committees and the Attorney General.

(b) The agency shall include the following documents with the regulation:

- (1) A completed regulatory analysis form.
- (2) A face sheet signed by the Office of General Counsel or chief counsel of an independent agency.
- (3) A transmittal sheet signed by the committees and the Office of Attorney General.
- (4) A statement from the agency head or designee or Office of General Counsel that the regulation was delivered to the committees in accordance with section 5.1(c) of the act (71 P. S. § 745.5a(c)).

(5) The preamble.

(6) The text of the final-omitted regulation indicating amendments to the existing regulation using the following format:

(i) Brackets to indicate language deleted from the existing regulation.

(ii) Underscoring to indicate language added to the existing regulation.

(c) If the committees are prevented from completing their review because of the end of the legislative session, the agency shall proceed in accordance with section 5.1(f) of the act.

**§ 307.4. Tolling the review period.**

(a) After delivery of a final regulation to the Commission and committees, an agency may revise the regulation only if it tolls the review period in compliance with section 5.1(g) of the act (71 P. S. § 745.5a(g)) and this section.

(b) An agency may only toll the review period one time.

(c) The agency may only toll the review period to make revisions recommended by the Commission or a committee.

(d) The agency shall toll the review period prior to the day on which either committee takes action on the regulation or the expiration of the committee review period.

(e) The agency may only toll the review period for up to 30 days.

(f) The agency may not toll the review period if the Commission objects. The Commission may object if the revision the agency intends to make is broader than or inconsistent with that recommended by the Commission or committee.

#### § 307.5. Procedure for tolling.

(a) The agency shall deliver written notice of its intention to toll to the Commission and the committees on the same date.

(b) The written notice shall include the following:

- (1) A citation to the section to be revised.
- (2) A description of the revision.

(3) An explanation of how the revision will satisfy the Commission's or committee's concerns.

(c) The agency shall deliver the written notice of its intention to toll prior to the expiration of the committees' 20-day review period or the day on which either committee takes action on the regulation, whichever occurs first.

(d) If the Commission objects to the tolling, it will notify the agency and the committees of its objections within 2 business days after its receipt of the agency's notice.

(e) If the Commission objects, the review period will not be tolled and the regulation will be reviewed within the original time period established under section 5.1(d)—(f) of the act (71 P. S. § 745.5a(d)—(f)).

(f) The Commission will notify the agency, the committees, the Attorney General and the General Counsel of the first and 30th day of the tolling period.

(g) Before the expiration of the tolling period, the agency shall deliver a revised regulation, or a written notice that the regulation will not be revised, to the committees, the Commission and the Attorney General (for a final-omitted regulation) on the same date. The agency shall deliver the revised regulation, or written notice, to the Commission after delivery to the committees and the Attorney General.

(h) The agency shall include a transmittal sheet with delivery of the regulation, or written notice that the regulation will not be revised.

(i) If the agency does not deliver a revised regulation, or written notice that the regulation will not be revised, before the expiration of the tolling period, the agency is deemed to have withdrawn the regulation. The Commission will notify the agency, the committees, the Attorney General and the Office of General Counsel that the regulation is deemed withdrawn.

(j) Upon receipt of the revised regulation, or written notice that the regulation will not be revised, the Commission will notify the agency, the committees, the Attorney General and the Office of General Counsel of the beginning and ending dates of the committee review period.

(k) The committees have the remainder of their 20-day review period or 10 days from the date of receipt of the revised regulation or written notice that the regulation will not be revised, whichever is longer, to approve or

disapprove the regulation. The committee review period begins the day after the revised regulation or written notice is received.

(l) The Commission has 10 days after the expiration of the committee review period, or until its next regularly scheduled meeting, whichever is later, to approve or disapprove the original or revised regulation.

(m) If the committees are prevented from completing their review because of the end of the legislative session, the agency shall proceed in accordance with section 5.1(f) of the act.

#### § 307.6. Commission review of a final regulation.

(a) The Commission has 10 days after the expiration of the committee review period, or until its next regularly scheduled meeting, whichever is later, to approve or disapprove a final regulation. The Commission will calculate its review period as beginning the day after the expiration of the committees' review period.

(b) If the Commission is unable to approve or disapprove a final regulation because of the lack of a quorum, its review period will be extended for 30 days or until the next meeting at which a quorum is present, whichever occurs first.

(c) To determine whether the final regulation meets the regulatory review criteria, the Commission will consider comments from interested parties, members of the General Assembly and the committees, and the agency's response to those comments.

### CHAPTER 309. ACTION ON REGULATIONS

Sec.	
309.1.	Commission and committee action on a final regulation.
309.2.	Commission approval/committee disapproval of a final regulation.

#### § 309.1. Commission and committee action on a final regulation.

(a) The Commission and each committee may approve or disapprove a final regulation by majority vote of members present.

(b) If a committee does not approve or disapprove the regulation within 20 days of receipt, the committee is deemed to have approved the regulation.

(c) The Commission is deemed to have approved a final-form regulation if the following conditions apply:

(1) All of the following events occur:

(i) The Commission has not objected to the regulation as proposed.

(ii) The agency has not made changes in the final-form regulation which were not included in the proposed regulation.

(iii) A committee has not conveyed to the Commission or agency any recommendations, comments or objections.

(2) The Commission does not take action within the time period established under § 307.6 (relating to Commission review of a final regulation).

(3) The Commission's vote results in a tie.

(d) The Commission will notify the LRB, the committees, and the agency of its action on a regulation.

(e) When the committees and the Commission approve or are deemed to have approved a regulation, the agency may proceed with promulgation of the regulation.

**§ 309.2. Commission approval/committee disapproval of a final regulation.**

(a) When the Commission approves a final regulation which one or both of the committees has disapproved, the Commission will deliver its approval order or notice indicating the regulation has been deemed approved to the disapproving committee and the agency within 2 business days after the approval or deemed approval.

(b) The agency may not promulgate the regulation for 14 days pending the report of a concurrent resolution from the disapproving committee, under section 7(d) of the act (71 P. S. § 745.7(d)).

(c) If the Commission is prevented from delivering the order or notice because of the end of the legislative session, the Commission will deliver its order or notice under section 6(c) of the act (71 P. S. § 745.6(c)).

**CHAPTER 311. PROCEDURES FOR REVIEW OF DISAPPROVED FINAL REGULATIONS**

Sec.	
311.1.	Commission disapproval of a final regulation.
311.2.	Response by an agency to Commission disapproval.
311.3.	Subsequent review of regulation without revisions or modifications.
311.4.	Delivery of a regulation with revisions.

**§ 311.1. Commission disapproval of a final regulation.**

(a) If the Commission disapproves a final regulation, the Commission will issue a disapproval order specifying the regulatory review criteria that the regulation has not met.

(b) The Commission will deliver its disapproval order to the LRB, the committees, the agency, the Attorney General and the commentators listed by the agency as having requested information on the final regulation.

(c) The Commission's disapproval order shall continue the bar on the promulgation of the regulation until the review provided under section 7 of the act (71 P. S. § 745.7) and this chapter is completed.

**§ 311.2. Response by an agency to Commission disapproval.**

(a) Within 7 calendar days of receipt of the Commission's disapproval order, the agency shall provide written notification to the Governor, the committees and the Commission of its selection of one of the following three options:

- (1) To proceed with promulgation of the regulation without revisions.
- (2) To revise the regulation in order to respond to the Commission's objections.
- (3) To withdraw the regulation.

(b) If the agency does not select an option within 7-calendar days after receipt of the Commission's disapproval order, the agency is deemed to have withdrawn the regulation.

(c) If the agency is prevented from notifying the committees of the option selected because of the end of the legislative session, the agency shall proceed in accordance with section 7(a.1) of the act (71 P. S. § 745.7(a.1)).

**§ 311.3. Subsequent review of regulation without revisions or modifications.**

(a) If the agency chooses to proceed with promulgation of the regulation without revision under § 311.2(a)(1) (relating to response by an agency to Commission disapproval), the agency shall deliver a report to the Commis-

sion and the committees within 40-calendar days of receipt of the Commission's disapproval order.

(b) The report shall contain the following:

- (1) The final regulation.
- (2) The Commission's disapproval order.
- (3) The agency's response to the Commission's disapproval.
- (4) A signed transmittal sheet.

(c) If the agency does not deliver the report within 40-calendar days of receipt of the Commission's disapproval order, the agency is deemed to have withdrawn the regulation.

(d) Upon receipt of the report, the committees may proceed in accordance with section 7(d) of the act (71 P. S. § 745.7(d)).

(e) If the agency is prevented from delivering its report to the committees because of the end of the legislative session, the agency shall proceed in accordance with section 7(b) of the act.

**§ 311.4. Delivery of a regulation with revisions.**

(a) If the agency chooses to revise or modify the final regulation under § 311.2(a)(2) (relating to response by an agency to Commission disapproval), the agency shall deliver a report to the committees and the Commission within 40-calendar days of receipt of the Commission's disapproval order.

(b) The report shall contain the following:

- (1) The revised final regulation.
- (2) The Commission's disapproval order.
- (3) A detailed explanation of how the revisions respond to the Commission's disapproval order.
- (4) A signed transmittal sheet.

(c) If the agency does not deliver the report within 40-calendar days of receipt of the Commission's disapproval order, the agency is deemed to have withdrawn the regulation.

(d) The committees have 10-calendar days from receipt of the report to approve or disapprove the report. If a committee does not disapprove the report within the 10-day period, that committee is deemed to have approved the report.

(e) The Commission has 7 days after the expiration of the committee review period, or until its next regularly scheduled meeting, whichever is later, to approve or disapprove the report. The Commission will calculate its review period as beginning the day after the expiration of the committee review period.

(f) If the Commission does not disapprove the report, the Commission is deemed to have approved the report.

(g) If the committees and the Commission approve or are deemed to have approved the report, the agency may proceed with promulgation of the revised final regulation.

(h) If the Commission or a committee disapproves the report, the bar on the promulgation of the final regulation shall continue until the review provided under section 7(c) and (d) of the act (71 P. S. § 745.7(c) and (d)) is completed.

(i) If the agency is prevented from delivering its report to the committees because of the end of the legislative session, the agency shall proceed in accordance with section 7(c) of the act.

(j) If the Commission is prevented from delivering its approval or disapproval order to the committees because of the end of the legislative session, the Commission will deliver its order in accordance with section 7(c) of the act.

### CHAPTER 313. EMERGENCY CERTIFIED REGULATIONS

Sec.  
313.1. General.  
313.2. Review of an emergency certified final regulation.

#### § 313.1. General.

(a) An agency may deliver a final regulation as an emergency certified regulation in either of the following situations:

(1) The Attorney General certifies that the regulation is required to satisfy the order of a State or Federal court, or to implement the provisions of a Federal statute or regulation.

(2) The Governor certifies that the regulation is required to avoid an emergency which may threaten the public health, safety or welfare, cause a budget deficit, or create the need for supplemental or deficiency appropriations of greater than \$1 million.

(b) The agency shall deliver the emergency certified final-form regulation and the certification from the Attorney General or the Governor in accordance with § 307.2 (relating to delivery of a final-form regulation).

(c) The agency shall deliver the emergency certified final-omitted regulation and the certification from the Attorney General or the Governor in accordance with § 307.3 (relating to delivery of a final-omitted regulation).

#### § 313.2. Review of an emergency certified final regulation.

(a) An emergency certified final regulation shall take effect immediately upon publication in the *Pennsylvania Bulletin*, or on the date specified in the agency's adoption order.

(b) Review of an emergency certified regulation shall be in accordance with the procedures of Chapters 307, 309 and 311 (relating to procedures for delivery and review of final regulations; action on regulations; and procedures for review of disapproved final regulations). If the emergency certified regulation is disapproved, the regulation shall be rescinded after 120 days or upon final disapproval under section 7(d) of the act (71 P. S. § 745.7(d)), whichever occurs later.

(c) Except as provided in section 5.1(g) of the act (71 P. S. § 745.5a(g)) and §§ 307.4 and § 307.5 (relating to tolling the review period; and procedures for tolling), an agency may not make changes to an emergency certified regulation after the agency delivers the regulation to the Commission and the committees.

### CHAPTER 315. EXISTING REGULATIONS AND UNPUBLISHED DOCUMENTS

Sec.  
315.1. Review of an existing regulation.  
315.2. Review of an unpublished document.

#### § 315.1. Review of an existing regulation.

(a) The Commission, on its own motion or at the request of any person or member of the General Assembly, may review an existing regulation which has been in effect for at least 3 years. If a committee of the Senate or House of Representatives requests the review, the Commission will assign it high priority.

(b) Upon delivery of a request to review an existing regulation, the Commission will initiate a preliminary review to determine whether further investigation is warranted.

(c) If the Commission determines that an investigation is not warranted, the matter will be closed. The Commission will notify the person or entity requesting the review of the existing regulation that no further action will be taken.

(d) If it is determined that an investigation is warranted, the Commission will notify the agency of the issues that have been raised and request a written response.

(e) After review of the agency's response and other relevant material, the Commission will issue a report setting forth its findings, conclusions or recommendations.

(f) The Commission will deliver its report to the agency, the committees, the Governor and the Attorney General. The Commission's report may include recommendations for amendment of the statute that provides statutory authority for the regulation.

#### § 315.2. Review of an unpublished document.

If the Commission finds that a published or unpublished document should be promulgated as a regulation, the Commission shall present its finding to the Joint Committee on Documents. The Joint Committee on Documents will determine whether the document should be promulgated as a regulation, and may order the agency to promulgate the document as a regulation within 180 days, or to desist from using the document in its business.

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