

PROPOSED RULEMAKING

INDEPENDENT REGULATORY REVIEW COMMISSION

[1 PA. CODE CHS. 301, 303, 305, 307,
309 AND 311]

Implementation of the Regulatory Review Act

The Independent Regulatory Review Commission (IRRC) proposes to amend Chapters 301, 303, 305, 307, 309 and 311.

This proposed rulemaking will implement amendments to the Regulatory Review Act (act) enacted by the act of December 6, 2002 (P. L. 1227, No. 148) (Act 148). Because Act 148 made several substantive procedural changes, regulations relating to the review process must be revised.

Statutory Authority

The rulemaking is proposed under the authority in section 11(a) of the act (71 P. S. § 745.11(a)).

Background

This proposed rulemaking will implement the Act 148 amendments to the act. Act 148 made several substantive changes in the order and time for committee and IRRC review. 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 three major changes brought about by the Act 148 amendments areas follows:

- Committees are no longer restricted to a 20-day period to comment on proposed regulations. They may issue comments at any time until the agency submits the regulation in final-form. This change allows the committees to review IRRC's analysis before deciding whether to issue comments on a proposed rulemaking.
- Committees no longer have a maximum of 20 days to take action on a final-form rulemaking and are no longer limited to approval or disapproval. Instead, a committee has until 24 hours before IRRC's public meeting to approve or disapprove a final-form rulemaking or notify IRRC that it intends to review the rulemaking further.

- If an agency decides to resubmit a disapproved rulemaking without changes, the rulemaking must again be submitted to IRRC for review.

In addition to the three major changes, Act 148 made several additional administrative changes.

- The 48-hour blackout immediately preceding IRRC's public meeting only applies to unsolicited public comments. Communication with the agency and members of the General Assembly may continue. In addition, IRRC may initiate contact with any party to obtain information on a final rulemaking.

- IRRC is only required to retain comments and not all documents in its public regulatory files. Miscellaneous correspondence and research materials need not be retained.

- IRRC now has a minimum of 30 days to review and take action on a final rulemaking. However, IRRC may not act on a final rulemaking for at least 20 days after receipt to give the committees a minimum time period for review.

- An additional criterion for review, and thus a basis for disapproval, is agency noncompliance with the act and IRRC's regulations.

Purpose

The purpose of this proposed rulemaking is to implement the Act 148 amendments to the act.

Summary of the Proposed Rulemaking

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

- Section 301.1 (relating to definitions) adds definitions for "comments," "Commission comments," "committee action" and "deemed approved by a committee." In addition, it revises definitions for "deemed approved by the Commission," "embargoed material" and "regulatory review criteria."

- Sections 301.2—301.6, 301.8 and 301.9 were revised to provide greater clarity.

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

- Section 303.2 (relating to blackout period) implements the newly relaxed blackout rules.

- Section 303.4 (relating to proxy voting) allows a Commissioner participating in a public meeting by phone to verbally give proxy to the Chairperson if the Commissioner is unable to remain for the duration of the meeting.

Chapter 305 (relating to procedures for delivery and review of proposed regulations) outlines the procedures for delivery and review of proposed regulations.

- Section 305.1 (relating to delivery of a proposed regulation) provides formatting conventions for the text of proposed rulemakings.

- Section 305.2 (relating to delivery of comments and information by an agency) outlines the agency's responsibilities with respect to the delivery of comments to IRRC and committees.

- Section 305.3 (relating to Commission review period) incorporates the new 30-day timeline for IRRC review of a proposed rulemaking.

- Section 305.4 (relating to Commission comments on a proposed regulation) has been revised to add greater clarity.

Chapter 307 (relating to procedures for delivery and review of final regulations) outlines the procedures for delivery of final-form and final-omitted rulemakings.

- Section 307.1 (relating to two-year period for promulgation) clarifies when the 2-year period for promulgation ends in instances when the agency has extended or has reopened the public comment period.

- Sections 307.2 and 307.3 (relating to delivery of final-form regulation; and delivery of final-omitted regulation) provide formatting conventions for the texts of final-form and final-omitted rulemakings.

• Section 307.4 (relating to tolling the review period) has been revised to provide greater clarity.

• Section 307.5 (relating to procedure for tolling) outlines the new timelines for IRRC and committee review when the agency tolls the review period.

• Section 307.6 (relating to Commission review of a final regulation) outlines the new time period for IRRC review of a final rulemaking.

Chapter 309 (relating to action on regulations) outlines the actions IRRC and the committees may take on rulemakings and the results of specific actions.

• Section 309.1 (relating to Commission and committee action on a final regulation) outlines the time and options for committee action. Other clarifying revisions have also been made.

• Section 309.2 (relating to Commission approval/committee disapproval of a final regulation) outlines what happens if IRRC approves a rulemaking that a committee has disapproved or intends to review.

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

• Section 311.2 (relating to response by an agency to Commission disapproval) implements the newly revised procedures for agency response to IRRC disapproval.

• Sections 311.3 and 311.4 (relating to subsequent review of regulation without revisions or modifications; and delivery of a regulation with revisions) outline the agency's responsibility, respectively, for delivery of a report for a rulemaking submitted without revisions and a rulemaking submitted with revisions.

• Section 311.5 (relating to subsequent review of disapproved regulation) is new. It implements the Act 148 amendments to the order and procedure for subsequent committee and IRRC review of disapproved rulemakings. Committees act after, and not prior to, IRRC review of a report submitted with a rulemaking with revisions or a report submitted with a rulemaking without revisions. Even when the committees have approved the rulemaking in the first instance, and IRRC has approved the report, the committees are given another opportunity for review. They have 14 days to report out a concurrent resolution.

Contact Person

This proposed rulemaking is published on IRRC's website at www.irrc.state.pa.us. Written comments, suggestions or objections will be accepted for 45 days after publication of this proposed rulemaking. IRRC invites comments from the General Assembly, executive and independent agencies and interested parties. Comments and questions should be referred to Mary S. Wyatt, Esq., Chief Counsel, Independent Regulatory Review Commission, 333 Market Street, 14th Floor, Harrisburg, PA 17101, (717) 783-5417, fax: (717) 783-2664, irrc@irrc.state.pa.us.

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

Regulatory Review

Under sections 5(a) and 11(a) of the act (71 P.S. § 745.5(a) and 11(a)), on July 7, 2003, IRRC submitted a copy of this proposed rulemaking and a copy of a

Regulatory Analysis Form to the Joint Committee on Documents and to the Chairpersons of the House State Government Committee and the Senate Rules and Executive Nominations Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the act, the Joint Committee on Documents may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The act specifies detailed procedures for review, prior to final publication of the rulemaking, by IRRC, the General Assembly and the Governor of comments, recommendations or objections raised.

JOHN R. MCGINLEY, Jr.,
Chairperson

Fiscal Note: 70-7. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 1. GENERAL PROVISIONS

PART III. INDEPENDENT REGULATORY REVIEW COMMISSION

CHAPTER 301. GENERAL PROVISIONS

§ 301.1. Definitions.

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

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Comments—

(i) **Written statements delivered to the Commission, supporting, opposing or recommending changes to a final, proposed or existing regulation which is subject to review by the Commission.**

(ii) **The term does not include previously published or copyrighted material.**

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Commission comments—Objections, recommendations, statements or questions relating to a proposed regulation issued by the Commission in accordance with section 5(g) of the act (71 P.S. § 745.5(g)).

* * * * *

Committee action—One of the following:

(i) **Approval or disapproval of a regulation, or notice that the committee intends to review the regulation under section 5.1(j.2) of the act (71 P.S. § 745.5.a(j.2)).**

(ii) **Reporting of a concurrent resolution under section 7(d) of the act (71 P.S. § 745.7(d)), within the time allotted by the act.**

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Deemed approved by the Commission—

(i) **The approval of a regulation by the Commission [or a committee] by operation of law when [the committee or] the Commission has not approved or disapproved the regulation [by majority vote], in accordance with section 5.1(e) of the act (71 P.S. § 745.5a(e)).**

(ii) **The approval of an agency report by operation of law when the Commission has not approved**

or disapproved the agency report, in accordance with section 7(c.1) of the act (71 P. S. § 745.7(c.1)).

Deemed approved by a committee—The approval of a regulation by a committee by operation of law when the committee has not taken action on a regulation under section 5.1(j.2) or 7(d) of the act.

* * * * *

Embargoed material—

(i) **[Documents] Comments** pertaining to a regulation on the agenda for the Commission’s public meeting delivered during the blackout period by anyone, except **[documents] comments from [the committee or a member of the committee] the agency or members of the General Assembly and their staffs.**

(ii) **The term does not include comments submitted by any person at the request of the Commission.**

* * * * *

Regulatory review criteria—The criteria delineated in section **[5.1(h) and (i)] 5.2(a) and (b)** of the act (71 P. S. § **[745.5a(h) and (i)] 745.5b(a) and (b)**).

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§ 301.2. Regulation files.

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(b) The files shall include the following materials:

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(2) **[Documents received, including comments, correspondence from the agency, transcripts and manuals.] Comments received from the time a proposed, final or existing regulation is delivered until the Commission takes action on the regulation under section 5.1(e), (g)(3) or 7(c.1) of the act (71 P. S. § 745.5a(e), (g)(3) and 7(c.1)) of the act, or until the regulation is withdrawn or deemed withdrawn.**

(3) **[Subpoenas.**

(4) **Correspondence from the Commission.**

(5) **] Commission comments.**

[(6)] (4) Commission orders.

(c) After the Commission takes final action on a regulation under section **[6(a) or 7(c)] 5.1(e), (g)(3) or 7(c.1)** of the act **[(71 P. S. § 745.6(a) and 745.7(c)]** or the regulation is withdrawn or deemed withdrawn, 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] obtain copies** of the materials contained in the regulation files during the Commission’s normal business hours.

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§ 301.3. Determination of date and time of delivery of comments and documents.

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

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(b) If the commentator requests confirmation of delivery of **[a] hand-carried [document] comments or documents**, the commentator 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 commentator. If the commentator requests confirmation of a document delivered through the postal or another delivery service, the commentator 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 commentator.

(c) If the commentator requests confirmation of delivery of **[an] e-mailed or faxed [document] comments or documents**, the Commission will fax or e-mail confirmation of delivery to the commentator.

(d) The commentator shall have the responsibility to obtain confirmation that **[a document was] comments or documents were** 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 of regulations or reports.

(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:

* * * * *

(3) A day on which Commonwealth, **Commission or committee** offices located in Harrisburg are closed due to emergency circumstances.

(4) A day on which the staff offices of the **Commission** or Senate or House of Representatives are officially closed.

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

§ 301.5. Expiration of [committee and] Commission review [periods] period.

(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:**

* * * * *

(3) A day on which Commonwealth, **Commission or committee** offices located in Harrisburg are closed due to emergency circumstances.

* * * * *

[(c)] (b) * * *

§ 301.6. 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] the **designated** committee as defined in § 301.1 (relating to definitions), the agency shall deliver the regulation to the [correct] **designated** committee.

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

(c) **The regulation will not be considered delivered for the purposes of the act and this chapter until it is delivered to the designated committee.**

(d) The review period of the [correct committee] **Commission** will begin as follows:

(1) For proposed regulations, the day after the close of the public comment period or the day after delivery to the **designated committee**, whichever is later.

(2) For final regulations, the day after delivery to the **designated committee**.

§ 301.8. Agency contact person.

An agency [shall] may notify the Commission, in writing, of the name, title, address, e-mail address, telephone number and facsimile number of [the] a **single** agency representative or office designated to receive comments, orders, embargoed material and other documents **relating to a regulation**, which the Commission delivers by facsimile or e-mail to the agency. **If the agency does not designate a representative, the Commission will deliver documents to the agency head.** Delivery is deemed made if sent by facsimile or e-mail to the **agency head**, designated agency representative or office, and delivery is confirmed.

§ 301.9. Procedure for public hearings.

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

CHAPTER 303. MEETINGS OF THE COMMISSION

§ 303.2. Blackout period.

(a) During the blackout period, Commissioners and Commission staff [will not communicate] may initiate contact with [anyone, except a committee, committee member or committee staff person,] or request information from any person regarding the substance of a regulation on the Commission's public meeting agenda.

(b) Comments [and documents] may be delivered by [anyone, except a committee, committee member or committee staff person,] agency staff, a member of the General Assembly, or legislative staff during the blackout period [will be embargoed mate-

rial]. Comments delivered by any other person during the blackout period will be embargoed, unless the comments are delivered at the request of the Commission.

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

(d) Upon the call to order of the public meeting, embargoed material will be distributed to the Commissioners [and Commission staff assigned to review the regulation].

§ 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] **Except as set forth in subsection (b),** 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 vote.

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(b) **A Commissioner who is participating in a public meeting by telephone may verbally give his proxy to the Chairperson if he is unable to remain for the duration of the meeting.**

(c) The Chairperson, another Commissioner or the Executive Director will present the proxy at the public meeting at the time of the Commission vote.

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

CHAPTER 305. PROCEDURES FOR DELIVERY AND REVIEW OF PROPOSED REGULATIONS

§ 305.1. Delivery of a proposed regulation.

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

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

(5) **The text of the regulation.**

(c) **Proposed changes in an existing regulation shall be indicated using the following format:**

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

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

(d) **If the proposed regulation is new, and is not amending an existing regulation, no formatting is needed.**

§ 305.2. Delivery of comments and information by an agency; notification to commentators.

(a) From the date of delivery of the proposed regulation until the [expiration of the Commission's review period as in § 305.3 (relating to Commission review period) date the Commission takes final action on

the regulation, the agency shall deliver to the Commission and committees copies of the following material relating to the regulation:

(1) [The comments] Comments received. If a comment indicates that a copy has been sent to the Commission and the agency verifies that the comment was delivered to the Commission, the agency is not required to deliver an additional copy of that comment.

(2) Reports from advisory groups which the Commission has requested.

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

(4) Transcripts of public hearings which the Commission has requested.

(b) The agency shall deliver copies of comments to the Commission and the committees within 5 business days of [its] receipt [of the comments].

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(d) The agency shall inform each commentator of the following:

(1) The name, address and phone number of the person in the agency from whom the commentator may request further information on the final-form regulation.

(2) Upon request, the agency will notify the commentator when the final-form regulation is delivered to the Commission.

(3) Upon request, the agency will provide the commentator with either a copy of the final-form regulation or a summary of the changes to the proposed regulation which are incorporated in the final-form regulation.

§ 305.3. Commission review period.

The Commission [has 10] may have 30 days after the expiration of the [committee review] public comment period to review the regulation and deliver its comments to the agency and the committees. The Commission will calculate its review period as beginning the day after the expiration of the [committee review] public comment period.

§ 305.4. Commission comments on a proposed regulation.

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(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] transmit it 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] Commission comments will specify the regulatory review criteria that [the regulation has not met] are the basis for the Commission's objections, recommendations, statements or

questions. [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, such as revisions, deletions or additions, 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

§ 307.1. Two-year period for promulgation.

(a) 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.

(b) An agency may extend the public comment period by publishing a notice in the *Pennsylvania Bulletin* prior to the date when the public comment period was originally scheduled to close.

(c) An agency may reopen a public comment period which has closed by publishing a notice in the *Pennsylvania Bulletin* prior to the expiration of the Commission review period under section 5(g) of the act (71 P. S. § 745.5(g)).

(d) If the public comment period is extended or reopened, the 2-year period for promulgation will begin on the day after the extended or reopened public comment period ends.

§ 307.2. Delivery of a final-form regulation.

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

* * * * *

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

(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:]

(d) Changes to a new proposed regulation shall be indicated using the following format:

[(i)] (1) Brackets to indicate language [proposed to be] that is being deleted from the [existing] proposed regulation.

[(ii)] (2) Underscoring to indicate [the] new language [proposed to be] that is being added to the [existing] proposed regulation.

(e) Changes to a proposed amendment to an existing regulation shall be indicated using the following format:

[(iii)] (1) Strikeout type to indicate [the new] language in the existing or proposed regulation which is deleted in the final-form.

[(iv)] (2) Capital letters to indicate [the] new language in the final-form regulation which was not included in the existing or proposed regulation.

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

§ 307.3. Delivery of a final-omitted regulation.

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

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(5) The text of the final-omitted regulation [indicating amendments].

(c) Amendments to [the] an existing regulation shall be indicated using the following format:

[(i)] (1) Brackets to indicate language deleted from the existing regulation.

[(ii)] (2) Underscoring to indicate new language added to the existing regulation.

§ 307.4. Tolling the review period.

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

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

(d) The agency shall toll the review period prior to [whichever of the following events occurs first]:

(1) [The] the day on which either committee takes action on the regulation[.].

(2) [The] or the expiration of the [committee] Commission's review period under section 5.1(e) of the act (71 P. S. § 745.5a(e)) if neither committee takes action.

[(3) The beginning of the blackout 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 agency indicates in its notice of intent to toll that it is considering revisions that are broader than or inconsistent with those recommended by the Commission or a committee.

§ 307.5. Procedure for tolling.

(a) [The] The Commission or a committee may deliver a recommendation for revising a final regulation to the agency.

(b) If the agency decides to toll the review period upon receipt of the recommendation, the agency

shall deliver written notice of its intention to toll to the Commission and the committees on the same date.

[(b)] (c) The written notice shall include the following:

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[(c)] (d) 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] or the expiration of the Commission's review period under section 5.1(j.2) of the act (71 P. S. § 745.5a(j.2)) if neither committee takes action.

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

[(e)] (f) 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)] (e)-(j.3) of the act (71 P. S. § 745.5a[(d)-(f)](e)-(j.3)).

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

[(g)] (h) Before the expiration of the [tolling] tolled review 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.

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

[(i)] (j) 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] tolled review 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)] (k) 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] Commission's 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.]

(l) If the review period is tolled, the Commission's and the committees' review under section 5.1(e) and (j.1) of the act (71 P. S. § 745.5a(e) and (j.1)) is suspended until the agency delivers the revised regulation or notice that the regulation will not be revised.

(m) When the agency delivers the revised regulation or the notice that the regulation will not be revised, the Commission and the committees will resume their review. The Commission will have the remainder of the time provided by section 5.1(e) of the act or the time provided by section 5.1(g)(3) of the act, whichever is greater, to take action on the regulation. The committees will have the time provided by section 5.1(j.1) of the act to take action on the regulation.

§ 307.6. Commission and committee review of a final regulation; time period for review.

(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.] The Commission may not act on a final regulation for at least 20 days after delivery of the final regulation.

(b) The Commission may have until its next scheduled meeting which occurs no less than 30 days after delivery of the final regulation to take action on the regulation. The Commission will calculate its review period as beginning the day after the delivery of the regulation to the Commission and the committees.

(c) 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)] (d) * * *

CHAPTER 309. ACTION ON REGULATIONS

§ 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 participating.

(b) If a committee does not [approve or disapprove the regulation within 20 days of receipt] take action on a regulation under section 5.1(j.2) or (j.3) of the act (71 P. S. § 745.5a(j.2) and (j.3)), the committee is deemed to have approved the regulation.

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

(1) All of the following events occur:

(i) The Commission has not [objected to] issued comments relating to any portion of the regulation as proposed within the time provided for its review.

* * * * *

(iv) The agency has complied with the act and this part.

* * * * *

(3) The Commission's vote results in a tie and the time for the Commission's review expires.

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§ 309.2. [Commission approval/committee disapproval] Committee disapproval or notification of intent to review/Commission approval of a final regulation.

(a) [When the Commission approves or deems approved 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.] A committee may notify the Commission and the agency that it has disapproved a regulation or that it intends to review the regulation, in accordance with section 5.1(j.2) of the act (71 P. S. § 745.5a(j.2)).

(b) [The] If a committee disapproves a regulation, or notifies the Commission and the agency that it intends to review the regulation, the agency may not promulgate the regulation [for 14 days pending the report of a concurrent resolution from the disapproving committee, under section] until the time for reporting and adopting a concurrent resolution expires in accordance with section 5.1(j.2) and 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

§ 311.1. Commission disapproval of a 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(d) of the act (71 P. S. § 745.7(d)) and this chapter is completed.

§ 311.2. Response by an agency to Commission disapproval.

(a) [Within 7 calendar days of] Upon 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] may select one of the following three options:

* * * * *

(b) If the agency does not [select an option within 7-calendar days] deliver a report to the Commission and the committees within 40 days after receipt of the Commission's disapproval order, in accordance with section 7(b) or (c) of the act (71 P. S. § 745.7(b) or (c)), 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] Report for a disapproved regulation submitted 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 Commission and the committees within 40-calendar days of receipt of the Commission's disapproval order.

(b) The] report shall contain the following:

* * * * *

(4) A signed transmittal sheet indicating the report was delivered to the committees on the same date that it was delivered to the Commission.

[(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] Report for a disapproved regulation submitted 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:

* * * * *

(4) A [signed] transmittal sheet signed by the committees.

[(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.]

§ 311.5. Subsequent review of disapproved regulation.

(a) The Commission may have until its next scheduled meeting which occurs no less than 15 days from receipt of the report to approve or disapprove the report. The Commission will calculate its review period as beginning the day after receipt of the report.

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

(c) Upon receipt of the Commission's order approving or disapproving the report, or at the expiration of the Commission's review period if the Commission does not act on the report or deliver its order within the time prescribed by section 7(c.1) of the act (71 P. S. § 745.7(c.1)), the committees will have 14 days to review the report in accordance with section 7(d) of the act.

(d) If, by the expiration of the 14-day period, neither committee reports a concurrent resolution, the committees will be deemed to have approved the report.

(e) 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.

(f) If a concurrent resolution is reported, the bar on the promulgation of the final regulation shall continue until the review provided under section 7(d) of the act is completed.

(g) If a concurrent resolution is adopted by the House and the Senate and the Governor approves or is deemed to have approved the resolution, or if the Governor's veto of the resolution is overridden, in accordance with section 7(d) of the act the agency shall be permanently barred from promulgating the regulation.

(h) 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.

(i) 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.

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