

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 111]

Boating; Special Regulations Counties

The Fish and Boat Commission (Commission) proposes to amend Chapter 111 (relating to special regulations counties). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed rulemaking pertains to Sugar Lake, Crawford County and Cloe Lake, Jefferson County.

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect immediately upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the proposed rulemaking, contact Jason E. Oyler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7827. This proposed rulemaking is available on the Commission's website at www.fish.state.pa.us.

C. Statutory Authority

The proposed amendments to §§ 111.20 and 111.33 (relating to Crawford County; and Jefferson County) are published under the statutory authority of section 5124 of the code (relating to particular areas of water).

D. Purpose and Background

The proposed rulemaking is designed to improve, enhance and update the Commission's boating regulations. The specific purposes of the proposed amendments are described in more detail under the summary of proposals.

E. Summary of Proposals

(1) *Section 111.20.* The Commission received a petition to amend the regulations to increase the horsepower limit on Sugar Lake, Crawford County, from the current 6 horsepower to 10 horsepower. At its July 2006 meeting, the Commission directed staff to prepare a report with recommendations concerning the merits of the petition. The staff report was considered and reviewed by the Boating Advisory Board (Board) at its October 2006 meeting. The Board recommended that the horsepower be increased as proposed by the petitioner. The increase in horsepower is consistent with other lakes in Crawford County. The Commission therefore proposes to amend § 111.20 to read as set forth in Annex A.

(2) *Section 111.33.* Cloe Lake, Jefferson County, is a Commission-owned lake. Under § 53.8(a) (relating to boats), the operation of internal combustion engines is prohibited on Commission lakes. In accordance with this regulation, Cloe Lake has been regulated as an electric motors only lake. A recent review of the Commission's regulations in Chapter 111 revealed that they do not include Cloe Lake as being electric motors only. The Commission therefore proposes that § 111.33 be amended to add this restriction. The Commission proposes to amend § 111.33 to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.state.pa.us/Fish/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

Fiscal Note: 48A-189. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart C. BOATING

CHAPTER 111. SPECIAL REGULATIONS COUNTIES

§ 111.20. Crawford County.

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(d) *Sugar Lake.* The use of motors in excess of [6] 10 horsepower is prohibited.

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§ 111.33. Jefferson County.

(a) *Kyle Lake.* The operation of boats powered by internal combustion motors is prohibited.

(b) *Cloe Lake.* The operation of boats powered by internal combustion motors is prohibited.

[Pa.B. Doc. No. 07-434. Filed for public inspection March 16, 2007, 9:00 a.m.]

[58 PA. CODE CH. 69]

Fishing; Fishing in Lake Erie and Boundary Lakes

The Fish and Boat Commission (Commission) proposes to amend Chapter 69 (relating to fishing in Lake Erie and boundary lakes). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S.

(relating to the Fish and Boat Code) (code). The proposed rulemaking prohibits the transportation of live fish out of the Lake Erie watershed.

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the proposed rulemaking, contact Laurie E. Shepler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This proposed rulemaking is available on the Commission's website at www.fish.state.pa.us.

C. Statutory Authority

The proposed addition of § 65.3 (relating to transportation of live fish out of the Lake Erie watershed) is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

The proposed rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the proposed amendment is described in more detail under the summary of proposal.

E. Summary of Proposal

Lake Erie and the Great Lakes contain invasive species, including zebra mussels, round goby, ruffe, spiny water flea and others, that have been introduced. Many of these introductions are believed to have occurred from ballast water exchange. An infectious fish disease, caused by a variant of Viral Hemorrhagic Septicemia Virus (VHS), has caused mortalities of muskies, yellow perch and gizzard shad. These mortalities were first reported from Lake St. Clair, the St. Clair River in Michigan and western Lake Erie near Detroit in spring 2006. As spring progressed, freshwater drum, white bass and yellow perch were reported from western and central Lake Erie, including areas near the Pennsylvania/Ohio border. The disease also has been reported from Lake Ontario. Other variant of forms of VHS known from Europe and the western United States have caused significant mortality in hatchery fish.

On October 24, 2006, the United States Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) issued an emergency order prohibiting the importation of certain live fish species from the Canadian provinces of Ontario and Quebec into the United States. In addition, export of live fish of the 37 species listed was prohibited from the eight Great Lake boundary states: Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin. On November 14, 2006, the APHIS issued an amended order that allowed restricted movement under requirements for testing and certification that fish are VHS free.

To contain the spread of invasive species and this disease, live fish from the portion of the Lake Erie watershed in this Commonwealth should not be transported out of the watershed and released into other waters. Therefore, the Commission proposes to make it unlawful to transport live fish out of the portion of the Lake Erie watershed in this Commonwealth and proposes to add § 69.3 (relating to transportation of live fish out of the Lake Erie watershed) to read as set forth in Annex A. Waters included in the portion of the Lake Erie watershed in this Commonwealth are Twentymile Creek, Orchard Beach Run, Sixteenmile Creek, Twelvemile Creek,

Eightmile Creek, Sevenmile Creek, Sixmile Creek, Fourmile Creek, Millcreek, Cascade Creek, Walnut Creek, Trout Run, Godfrey Run, Elk Creek, Crooked Creek, Raccoon Creek, Turkey Creek, Conneaut Creek, Ashtabula Creek and their tributaries.

By separate notice published at 37 Pa.B. 731 (February 10, 2007), the Executive Director, acting under the authority of § 65.25 (relating to temporary changes to fishing regulations), already has taken immediate action to make it unlawful to transport or cause the transportation of live fish out of the portion of the Lake Erie watershed in this Commonwealth. The temporarily modification went into effect immediately and will remain in effect in effect until January 1, 2008, unless the Commission, by appropriate action, adopts the new regulation.

F. Paperwork

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.state.pa.us/Fish/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in another manner will not be accepted.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

Fiscal Note: 48A-191. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

§ 69.3. Transportation of live fish out of the Lake Erie watershed.

It is unlawful to transport or cause the transport of live fish out of the portion of the Lake Erie watershed in this Commonwealth.

[Pa.B. Doc. No. 07-435. Filed for public inspection March 16, 2007, 9:00 a.m.]

[58 PA. CODE CH. 65]
Fishing; Special Fishing Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed rulemaking removes a special fishing regulation applicable to Sugar Lake, Crawford County.

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2008.

B. Contact Person

For further information on the proposed rulemaking, contact Jason E. Oyler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7827. This proposed rulemaking is available on the Commission's website at www.fish.state.pa.us.

C. Statutory Authority

The proposed amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

D. Purpose and Background

The proposed rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the proposed amendment is described in more detail under the summary of proposal.

E. Summary of Proposal

Sugar Lake is a 90-acre natural lake in southeastern Crawford County. A miscellaneous special regulation has been in place on this lake that provides for a 36-inch minimum size limit and 1 per day creel limit on muskellunge. The Commission recently amended Chapter 61 (relating to seasons, sizes and creel limits) to implement a 40-inch minimum size and 1 per day creel limit for muskellunge Statewide. The Commission therefore proposes that Sugar Lake be removed from management under the miscellaneous special regulations and be managed under the new Statewide regulation for muskellunge. The Commission proposes to amend § 65.24 to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the Pennsylvania Bulletin. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.state.pa.us/Fish/regcomments. If an acknowledgment of electronic com-

ments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in another manner will not be accepted.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

Fiscal Note: 48A-190. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

Table with 3 columns: County, Name of Water, Special Regulations. Row 1: Crawford, Sugar Lake, Muskellunge—36-inch minimum size limit and a 1 muskellunge daily a creel limit. Other species—inland regulations apply.

[Pa.B. Doc. No. 07-436. Filed for public inspection March 16, 2007, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

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

Practices and Procedures of the Commission

The Independent Regulatory Review Commission (Commission) proposes to amend Chapters 301, 305, 307 and 309, 311, 313 and 315 and to add 311a to read as set forth in Annex A.

Statutory Authority

This rulemaking is proposed under section 11(a) of the Regulatory Review Act (act) (71 P. S. § 745.11(a)).

Purpose

The primary purpose of this proposed rulemaking is to implement the provisions of the act regarding the timelines for the delivery of regulations, comments, Commission orders and reports immediately preceding and after the end of the legislative session. Other amendments establish timelines for delivery of Commission comments when the public comment period has been extended or reopened. In addition, editorial amendments have been made for improved readability.

Summary of Amendments

Amendments to § 301.2 (relating to regulation files) establish procedures for accessing and copying documents in the Commission's regulation files and set fees.

New §§ 305.1a and 307.3a (relating to formatting the text of a proposed regulation; and formatting the text of a final regulation) are added to clarify formatting requirements for proposed and final regulations.

Section 305.3 (relating to Commission review period) is amended to add provisions from § 305.4 (relating to Commission comments on a proposed regulation) for greater clarity. Section 305.4 will be rescinded. Proposed § 305.3 allows agencies to extend or reopen the public comment period and provides new timelines for the issuance of Commission comments after the end of the extended or reopened public comment period. Proposed § 305.3(b) provides that if the agency extends or reopens the public comment period before the Commission's review period ends, the Commission may have 30 days after the close of the extended or reopened public comment period to deliver Commission comments to the agency and the committees. Proposed § 305.3(r)(2) provides that if the agency reopens the public comment period after the Commission's review period ends, the Commission may have 30 days after the close of the reopened public comment period to deliver Commission comments to the agency and the committees which, at the Commission's discretion, will either supplement or replace the original Commission comments. If the Commission does not deliver Commission comments within 30 days after the close of the reopened public comment period, the original Commission comments will remain the official Commission comments. Proposed § 305.3(c)(8) provides that the 2-year period for promulgation will begin on the day after the extended or reopened public comment period ends.

Section 307.4 (relating to tolling the review period) has been renamed "Amending by withdrawing the regulation or tolling the review period." As rewritten, this section clarifies that there are two methods for revising a final regulation after it has been submitted to the Commission and the committees.

Section 307.5 (relating to procedure for tolling) has been renamed "Tolling the review period." This section establishes a much more streamlined method for tolling and revising a regulation.

Section 309.1 (relating to Commission and committee action on a final regulation) has been amended to allow a regulation which meets the statutory criteria of section 5(g) of the act (71 P. S. § 745.5(g)) to be deemed approved 30 days after receipt, even if the Commission does not have a public meeting in that time. This will eliminate delay in promulgating regulations which are not at all controversial.

Chapter 311a (relating to procedures for review of disapproved final regulations) has been added to clarify the time frames and deadlines for delivering regulations, comments, reports and orders immediately preceding and after the end of the legislative session.

Contact Person

Written comments, suggestions or objections will be accepted for 30 days after publication of this proposed rulemaking in the Pennsylvania Bulletin. The Commission invites comments from the General Assembly, executive and independent agencies and interested parties. Comments and questions should be sent to Leslie Lewis Johnson, Esq., Deputy Chief Counsel, Independent Regu-

latory Review Commission, 333 Market Street, 14th Floor, Harrisburg, PA 17101, (717) 783-5417, fax (717) 783-2664, irrc@irrc.state.pa.us. This proposed rulemaking is posted on the Commission's website at www.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, on March 7, 2007, the Commission 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 any 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. Prior to final-form publication, the Joint Committee on Documents, the General Assembly and the Governor are afforded the opportunity, under the procedures detailed in the act, to review all comments and recommendations received and objections raised.

ARTHUR COCCODRILLI,
Chairperson

Fiscal Note: 70-8. 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:

* * * * *

Commission—[As defined in section 3 of the act]
The Independent Regulatory Review Commission.

* * * * *

Commonwealth Attorneys Act—[As defined in section 3 of the act] The act of October 15, 1980 (P. L. 950, No. 164).

Commonwealth Documents Law—[As defined in section 3 of the act] The act of July 31, 1968 (P. L. 769, No. 240) (71 P. S. §§ 732-101—732-506).

* * * * *

Delivery—

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

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

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

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[**Form letters**—Letters which contain verbatim text.]

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Website—The Commission’s website at www.irrc.state.pa.us.

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§ 301.2. Regulation files.

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(b) [**The**] Regulation files [**shall**] will include the following materials:

* * * * *

(2) Comments received from the time a proposed [,] or 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)), or until the regulation is withdrawn or deemed withdrawn.

* * * * *

(d) [**Upon request, a**] Any person may examine or obtain copies of the materials contained in [**the**] regulation files [**during the Commission’s normal business hours**]. The Commission will make regulation files available by doing one or more of the following:

- (1) **Posting on the Commission’s website.**
- (2) **Sending by means of e-mail or First Class Mail upon request.**
- (3) **Allowing inspection in the Commission office during normal business hours upon request.**

(e) The Commission may charge reasonable fees for [**copies of**] copying, certifying and mailing material contained in a regulation file. Fees will be posted on the website.

§ 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**] end on the first business day after the expiration day established in the act or this part if [**that**] the expiration day is one of the following:

* * * * *

§ 301.5. Expiration of Commission review period.

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

* * * * *

(4) **A day on which the Commission office is officially closed.**

(5) A Saturday or Sunday.

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§ 301.6. Delivery of a regulation to [**the wrong**] a committee **other than the committee designated to review the agency’s regulation.**

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

* * * * *

(d) The review period of the Commission will begin as follows:

(1) For proposed regulations, the day after the close of the public comment period **under § 305.3 (relating to Commission comments)** or the day after delivery to the designated committee, whichever is later.

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§ 301.8. Agency contact person.

An agency may notify the Commission, in writing, of the name, title, address, e-mail address, telephone number and facsimile number of 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.**]

CHAPTER 303. MEETINGS OF THE COMMISSION

§ 303.1. Notice of Commission public meetings; participation; minutes.

(a) The Commission will give notice of [**its**] public meetings in accordance with the Sunshine Act.

(b) The Commission will deliver notice of a [**rescheduled**] public meeting to the committees and [**affected**] agencies **whose regulations are on the agenda** at least 10-calendar days prior to the meeting date.

(c) [**Commission public**] **Public** meetings are conducted in compliance with the Sunshine Act.

(d) [**Minutes of public meetings will be available for public inspection at the Commission office during regular business hours.**] **The Commission will make minutes of public meetings available by doing one or more of the following:**

- (1) **Posting on the Commission’s website.**
- (2) **Sending by means of e-mail or First Class Mail upon request.**
- (3) **Allowing inspection in the Commission office during normal business hours upon request.**

(e) **The Commission may charge reasonable fees for copying, certifying and mailing minutes. Fees will be posted on the website.**

§ 303.2. Blackout period.

(a) During the blackout period, Commissioners and Commission staff may [**initiate**] contact [**with**] or

request information from any person regarding the substance of a regulation on the Commission's public meeting agenda.

(b) [Comments may be delivered by agency staff, a member of the General Assembly, or legislative staff during the blackout period. Comments delivered by any other person during the blackout period will be embargoed, unless the comments are delivered at the request of the Commission.] During the blackout period, the Commission will continue to accept comments submitted by agency staff, a member or staff person of the General Assembly, or a person submitting information at the request of the Commission. Comments submitted by any other person will be embargoed.

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

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§ 303.3. Quorum.

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(b) Once a quorum is established, Commissioners who subsequently leave the meeting may continue to participate in meetings and vote on regulations by teleconference or proxy.

CHAPTER 305. PROCEDURES FOR DELIVERY AND REVIEW OF PROPOSED REGULATIONS

§ 305.1. Delivery of a proposed regulation.

* * * * *

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

* * * * *

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

* * * * *

[(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.]

§ 305.1a. Formatting the text of a proposed regulation.

(a) Proposed amendments to an existing regulation shall be illustrated as follows:

(1) Brackets to indicate language proposed to be deleted.

(2) Underscoring or bolding to indicate new language proposed to be added.

(b) The formatting described in subsection (a) is not required if the entire regulation is new and is not amending an existing regulation.

§ 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 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) [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 or a committee 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 or a committee has requested.

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

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(c) The agency [shall] may 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.

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

* * * * *

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

(3) [Upon] That 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] comments.

[The] (a) Within 30 days after the close of the public comment period, the Commission may [have 30 days after the expiration of the public comment period to review the regulation and] deliver [its] Commission comments to the agency and the committees. The Commission will calculate its review period as beginning on the day after the expiration of the public comment period.

(b) An agency may extend or reopen the public comment period by delivering notice to the Commission and the committees, and publishing a notice in the Pennsylvania Bulletin that specifies the close of the extended or reopened public comment period.

(c) When an agency extends or reopens the public comment period, the following apply:

(1) If the agency extends or reopens the public comment period before the Commission review period expires, the Commission may have 30 days after the close of the extended or reopened public comment period to deliver Commission comments to the agency and the committees.

(2) If the agency reopens the public comment period after the Commission's review period expires, the Commission may have 30 days after the

close of the reopened public comment period to deliver Commission comments to the agency and the committees. The Commission comments, at the Commission's discretion, will either supplement or replace the original Commission comments delivered to the agency and the committees within the time prescribed in subsection (a). If the Commission does not deliver comments within 30 days after the close of the reopened public comment period, the original Commission comments delivered to the agency and the committees in accordance with subsection (a) will remain the official Commission comments.

(3) The 2-year period for promulgation under § 307.1 (relating to two-year period for promulgation) will begin on the day after the extended or reopened public comment period ends.

(d) The agency shall verify receipt of Commission comments in the following manner:

(1) If the Commission comments are hand delivered, by signing the Commission's receipt card.

(2) If the Commission comments are delivered by facsimile, by signing and transmitting by facsimile the cover page to the Commission.

(3) If the Commission comments are e-mailed, by sending a return e-mail to the Commission confirming receipt.

(e) Commission comments will specify the regulatory review criteria that are the basis for the Commission's objections, recommendations, statements or questions.

§ 305.4. [Commission comments on a proposed regulation] (Reserved).

[(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 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) Commission comments will specify the regulatory review criteria that are the basis for the Commission's objections, recommendations, statements or questions.]

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 original, extended or reopened public comment period for the proposed regulation, the agency is deemed to have withdrawn the regulation.

[(b) An agency may extend or reopen 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.

* * * * *

(b) On the same date that the agency submits the regulation to the committees and the Commission, the agency shall send, by first-class or [electronic mail] e-mail, a notice of submission and a copy of the text of the final-form regulation or a copy of all changes to the proposed regulation which are incorporated into the final-form regulation, to those commentators who requested information on the final-form regulation.

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

* * * * *

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

* * * * *

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

(1) Brackets to indicate language which is being deleted from the proposed regulation.

(2) Underscoring to indicate new language which is being added to the proposed regulation.

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

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

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

§ 307.3. Delivery of a final-omitted regulation.

* * * * *

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

* * * * *

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

* * * * *

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

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

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

§ 307.3a. Formatting the text of a final regulation.

(a) If the proposed regulation was published in the format prescribed in § 305.1a(a) (relating to formatting the text of a proposed regulation) as an amendment to an existing regulation, amendments in the final-form regulation shall be illustrated as follows:

(1) Strikeout type to indicate language in the existing or proposed regulation which is being deleted.

(2) Capital letters to indicate new language which is being added to the final-form regulation which was not included in the existing or proposed regulation.

(b) If the entire proposed regulation was published in the format set forth in § 305.1a(b) as new, and not an amendment to an existing regulation, amendments in the final-form regulation shall be illustrated as follows:

(1) Brackets to indicate language in the proposed regulation which is being deleted.

(2) Underscoring or bolding to indicate new language which is being added in the final-form regulation.

(c) If the entire final-omitted regulation is new, and not an amendment to an existing regulation, the formatting described in subsections (a) and (b) is not required.

(d) If the final-omitted regulation is an amendment to an existing regulation, amendments in the final-omitted regulation shall be illustrated as follows:

(1) Brackets to indicate language in the existing regulation which is being deleted.

(2) Underscoring or bolding to indicate new language which is being added in the final-omitted regulation.

§ 307.4. [Tolling] Amending by withdrawing the regulation or 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 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 the day on which either committee takes action on the regulation or the expiration of the Commission's review period under section 5.1(e) of the act (71 P. S. § 745.5a(e)) if neither committee takes action.

(e) The agency may 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.]

After delivery of a final regulation to the Commission and committees, an agency may revise the regulation only if it does either of the following:

(1) Withdraws the final regulation in compliance with § 301.7 (relating to withdrawal of a regulation) and later submits the regulation with revisions. A revised final-form regulation shall be submitted within the 2-year time period under section 5.1(a) of the act (71 P. S. § 745.5a(a)) and §§ 305.3, 307.1 and 307.2 (relating to Commission comments; two-year period for promulgation; and delivery of a final-form regulation). A revised final-omitted regulation shall be submitted under § 307.3 (relating to delivery of a final-omitted regulation).

(2) Tolls the review period in compliance with section 5.1(g) of the act and § 307.5 (relating to tolling the review period).

§ 307.5. [Procedure for tolling] Tolling the review period.

[(a) 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.

(c) The written notice shall include the following:

(1) A citation to the section the agency is considering revising.

(2) A description of the revisions the agency is considering.

(3) An explanation of how the revisions the agency is considering will satisfy the Commission's or committee's concerns.

(d) The agency shall deliver the written notice of its intention to toll prior to the day on which either committee takes action on the regulation 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.

(e) If the Commission objects to the the 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.

(f) If the Commission objects, the review period will not be tolled and the regulation will be reviewed within the time period established under section 5.1(e)—(j.3) of the act (71 P. S. § 745.5a(e)—(j.3)).

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

(h) Before the expiration of the 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.

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

(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 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.

(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 Commission's review period.

(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 (71 P. S. § 745.5a(g)(3)), 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.]

(a) The agency may toll the review period for up to 30 days only to consider revisions recommended by a committee or the Commission in compliance with section 5.1(g) of the act (71 P. S. § 745.5a(g)).

(b) If the agency decides to toll the review period, the agency shall notify the committees and the Commission under section 5.1(g)(1) of the act. The notice from the agency shall be in writing and include:

(1) A citation to each section the agency is considering revising.

(2) A description of the revisions the agency is considering.

(3) An explanation of how the revisions the agency is considering will respond to the Commission's or committee's recommendations.

(c) 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, or that do not meet the criteria in section 5.2 of the act (71 P. S. § 745.5b).

(d) If the Commission objects, the review period will not be tolled and the regulation will be reviewed within the time period established under section 5.1(e)—(j.3) of the act.

(e) Before the expiration of the 30-day tolled review period, the agency shall deliver a revised regulation or notice that the review period will not

be tolled to the committees, the Commission and the Attorney General (for a final-omitted regulation) on the same date, or notify the Commission, the committees and the Attorney General (for a final-omitted regulation) that it will not revise the regulation.

(f) The agency shall include a transmittal sheet signed by the committees with its delivery of the revised regulation or notice that the regulation will not be revised.

(g) If the revised regulation contains provisions that were not recommended by the Commission or a committee, the Commission may disapprove the regulation.

(h) The agency may toll the review period only one time.

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

(a) The Commission may not act on a final regulation [for at least 20 days after delivery of the final regulation] until the expiration of the time for committee review under section 5.1(j.1) of the act (71 P. S. § 745.5a(j.1)).

* * * * *

(d) 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.] the following:

- (1) Comments from the committees.
- (2) Comments from members of the General Assembly.
- (3) Pertinent opinions issued by Pennsylvania and Federal courts.
- (4) Comments from the public.
- (5) The agency's response to comments and Commission comments.

CHAPTER 309. ACTION ON REGULATIONS

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

* * * * *

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

- (1) All of the following events occur:
 - (iii) A committee has not conveyed to the Commission or agency any recommendations, comments or objections after the expiration of the Commission comment period under section 5(g) of the act (71 P. S. § 745.5(g)) but within the time frame for committee review under section 5.1(j.2) of the act.

* * * * *

(v) The Commission's next public meeting occurs more than 30 days after receipt of the final-form regulation.

* * * * *

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

* * * * *

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

* * * * *

(b) 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 until the time for reporting and adopting a concurrent resolution expires in accordance with section 5.1(j.2) and (j.3) and section 7(d) of the act (71 P. S. § 745.7(d)).

CHAPTER 311. PROCEDURES FOR REVIEW OF DISAPPROVED FINAL REGULATIONS

§ 311.1. Commission disapproval of a final regulation.

* * * * *

(b) The Commission will deliver its disapproval order to the LRB, the committees, the agency[,] and the Attorney General [and the]. The Commission may notify commentators listed by the agency as having requested information on the final regulation by delivery of the disapproval order or by publication of a legal notice under 45 Pa.C.S. Chapter 3 (relating to Newspaper Advertising Act).

* * * * *

§ 311.2. Response by an agency to Commission disapproval.

(a) Upon receipt of the Commission's disapproval order, the agency may select one of the following three options:

(1) To proceed with promulgation of the regulation without revisions, under § 311.3 (relating to report for a disapproved regulation submitted without revisions or modifications).

(2) To revise the regulation in order to respond to the Commission's objections, under § 311.4 (relating to report for a disapproved regulation submitted with revisions).

(3) To withdraw the regulation, under subsection (b).

(b) If the agency does not deliver a report to the Commission and the committees within [40 days after receipt of the Commission's disapproval order, in accordance with] the time prescribed in section 7(b) or (c) of the act (71 P. S. § 745.7(b) [or] and (c)) and § 311a.7 (relating to delivery of the report for subsequent review of a disapproved regulation), the agency is deemed to have withdrawn the regulation.

§ 311.3. Report for a disapproved regulation submitted without revisions or modifications.

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 report [shall] must contain the following:

* * * * *

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

§ 311.4. Report for a disapproved regulation submitted with revisions.

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 report [shall] must contain the following:

(1) The revised final regulation, formatted in accordance with § 307.3a (relating to formatting the text of a final regulation).

* * * * *

(4) A signed transmittal sheet [signed by the committees] indicating that the report was delivered to the committees on the same day on which it was delivered to the Commission.

§ 311.5. Subsequent review of disapproved 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 (71 P. S. § 745.7(c)).

(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.]

(Editor's Note: The following text is new. It has been printed in regular type to enhance readability.)

CHAPTER 311a. DELIVERY OF REGULATIONS, COMMENTS, REPORTS AND ORDERS BEFORE AND AFTER THE END OF THE LEGISLATIVE SESSION

- Sec.
- 311a.1. Delivery of a proposed regulation after the end of the legislative session.
- 311a.2. Delivery of public comments after the end of the legislative session.
- 311a.3. Delivery of Commission comments after the end of the legislative session.
- 311a.4. Delivery of a final regulation within 20 days before the end of the legislative session.
- 311a.5. Delivery of a final regulation after the end of the legislative session.
- 311a.6. Delivery of notice of intent to toll the review period after the end of the legislative session.
- 311a.7. Delivery of the report for subsequent review of a disapproved regulation.
- 311a.8. Notification of Commission action on or deemed approval of a regulation or report after the end of the legislative session.

§ 311a.1. Delivery of a proposed regulation after the end of the legislative session.

(a) An agency may deliver a proposed regulation and required material to the Commission and the LRB after the end of the legislative session. The public comment period will begin upon publication of the proposed regulation in the *Pennsylvania Bulletin*. The Commission may submit comments within the time frame set forth in § 305.3 (relating to Commission comments).

(b) An agency may not deliver the proposed regulation and required material to the committees until the fourth Monday in January of the next year or until both committees have been designated in the next legislative session, whichever is later.

(c) If the agency does not deliver the proposed regulation and required material to the committees by the

second Monday after the publication of both committee designations in the *Pennsylvania Bulletin*, the regulation will be deemed withdrawn. If the agency wants to promulgate the regulation after the regulation has been deemed withdrawn, the agency shall submit a new proposed regulation to the Commission, committees and LRB in accordance with section 5(a) of the act (71 P. S. § 745.5(a)) and § 305.1 (relating to delivery of a proposed regulation).

(d) The agency is not required to redeliver the regulation to the Commission when it delivers the regulation to the committees.

(e) The agency shall deliver the transmittal sheet signed by the committees to the Commission on the same day that it delivers the regulation to the committees.

(f) The agency may not make any changes in the regulation after delivery to the Commission. If the agency wants to amend the proposed regulation prior to delivery to the committees, the agency shall withdraw the regulation from the Commission and submit a new proposed regulation to the Commission, committees and LRB in accordance with section 5(a) of the act and § 305.1.

§ 311a.2. Delivery of public comments after the end of the legislative session.

(a) The agency shall deliver public comments to the Commission in accordance with § 305.1a (relating to formatting the text of a proposed regulation).

(b) The agency may not deliver public comments to the committees which are received after the end of the legislative session until the fourth Monday in January of the next year or until both committees have been designated in the next legislative session, whichever is later.

(c) If the agency does not deliver public comments received after the end of the legislative session to the committees by the second Monday after the publication of both committee designations in the *Pennsylvania Bulletin*, the agency may be in violation of the act and this part, under section 5.2(b)(6) of the act (71 P. S. § 745.5(b)(6)).

§ 311a.3. Delivery of Commission comments after the end of the legislative session.

(a) The Commission will deliver comments to the agency issued after the end of the legislative session in accordance with section 5(g) of the act (71 P. S. § 745.5(g)).

(b) The Commission may not deliver Commission comments issued after the end of the legislative session to the committees until the fourth Monday in January of the next year or until both committees have been designated in the next legislative session, whichever is later.

(c) The Commission will deliver Commission comments issued after the end of the legislative session to the committees by the second Monday after the publication of both committee designations in the *Pennsylvania Bulletin*.

§ 311a.4. Delivery of a final regulation within 20 days before the end of the legislative session.

(a) An agency may deliver a final regulation to the Commission and the committees up to the end of the legislative session.

(b) If the end of the legislative session occurs before the committees have had at least 20 days to review the regulation, the agency shall redeliver the final regulation

and required material to the Commission and committees in the next legislative session.

(c) The agency may not redeliver the final regulation and required material to the Commission and the committees until the fourth Monday in January of the next year or until both committees have been designated in the next legislative session, whichever is later.

(d) If the agency does not redeliver the final regulation by the second Monday after the publication of both committee designations in the *Pennsylvania Bulletin*, the regulation shall be deemed withdrawn. If the agency wants to promulgate the regulation after the regulation has been deemed withdrawn, the agency shall submit either a new proposed regulation to the Commission, committees and LRB in accordance with section 5(a) of the act (71 P. S. § 745.5(a)) and § 305.1 (relating to delivery of a proposed regulation), a new final-form regulation to the Commission and the committees in accordance with section 5.1(a) of the act (71 P. S. § 745.5a(a)) and § 307.2 (relating to delivery of a final-form regulation), or a final-omitted regulation to the Commission, the committees and the Attorney General in accordance with section 5.1(c) of the act and § 307.3 (relating to delivery of a final-omitted regulation).

§ 311a.5. Delivery of a final regulation after the end of the legislative session.

(a) An agency may not deliver a final regulation and required material to the Commission and the committees after the end of the legislative session.

(b) The agency may not deliver the final regulation and required material to the Commission and the committees until the fourth Monday in January of the next year or until both committees have been designated in the next legislative session, whichever is later.

(c) If the 2-year period for promulgation of a final-form regulation under section 5.1(a) of the act (71 P. S. § 745.5a(a)) and § 307.1 (relating to two-year period for promulgation) expires after the end of the legislative session, the agency shall deliver the final-form regulation and required material to the Commission and the committees by the second Monday after publication of both committee designations in the *Pennsylvania Bulletin*. If the agency does not deliver the final-form regulation and required material by this date, the regulation shall be deemed withdrawn. If the agency wants to promulgate the regulation after the regulation has been deemed withdrawn, the agency shall submit a new proposed regulation to the Commission, committees and LRB in accordance with section 5(a) of the act (71 P. S. § 745.5(a)) and § 305.1 (relating to delivery of a proposed regulation), or a final-omitted regulation to the Commission, the committees and the Attorney General in accordance with section 5.1(c) of the act and § 307.3 (relating to delivery of a final-omitted regulation).

§ 311a.6. Delivery of notice of intent to toll the review period after the end of the legislative session.

After the end of the legislative session, an agency may not deliver notice of its intention to toll the review period until the committees resume their review in accordance with section 5.1(j.1) of the act (71 P. S. § 745.5(j.1)).

§ 311a.7. Delivery of the report for subsequent review of a disapproved regulation.

(a) An agency may not deliver its report and required material under section 7(b) or (c) of the act (71 P. S. § 745.7(b) and (c)) and § 311.3 or § 311.4 (relating to report for a disapproved regulation submitted without

revisions or modifications; and report for a disapproved regulation submitted with revisions) after the end of the legislative session.

(b) The agency may not deliver its report and required material until the fourth Monday in January of the next year or until both committees have been designated in the next legislative session, whichever is later.

(c) If the agency does not deliver its report and required material by the second Monday after both committee designations have been published in the *Pennsylvania Bulletin*, the disapproved final regulation shall be deemed withdrawn. If the agency wants to promulgate the regulation after the regulation has been deemed withdrawn, the agency shall submit either a new proposed regulation to the Commission, committees and LRB in accordance with section 5(a) of the act (71 P. S. § 745.5(a)) and § 305.1 (relating to delivery of a proposed regulation), a new final-form regulation to the Commission and the committees in accordance with section 5.1(a) of the act (71 P. S. § 745.5a(a)) and § 307.2 (relating to delivery of a final-form regulation), or a final-omitted regulation to the Commission, the committees and the Attorney General in accordance with section 5.1(c) of the act and § 307.3 (relating to delivery of a final-omitted regulation).

§ 311a.8. Notification of Commission action on or deemed approval of a regulation or report after the end of the legislative session.

(a) The Commission may not notify the committees of its approval, disapproval or deemed approval of a regulation or report after the end of the legislative session.

(b) The Commission may not notify the committees of its approval, disapproval or deemed approval of a regulation or report until the fourth Monday in January of the next year or until both committees have been designated in the next legislative session, whichever is later.

(c) If the Commission does not deliver its order disapproving the agency's report to the committees by the second Monday after both committee designations have been published in the *Pennsylvania Bulletin*, the Commission will be deemed to have approved the agency's report and final regulation.

CHAPTER 313. EMERGENCY CERTIFIED REGULATIONS

§ 313.1. General.

(a) An agency may deliver a final regulation as an emergency certified regulation, **under section 6(d) of the act (71 P. S. § 745.6(d))**, in either of the following situations:

* * * * *

§ 313.2. Review of an emergency certified final regulation.

* * * * *

(b) Review of an emergency certified regulation shall be in accordance with the procedures of Chapters 307, 309 [and], 311 and 311a [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.

* * * * *

CHAPTER 315. EXISTING REGULATIONS AND UNPUBLISHED DOCUMENTS

§ 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, **under section 8.1 of the act (71 P. S. § 745.8a)**. If a committee of the Senate or House of Representatives requests the review, the Commission will assign it high priority.

* * * * *

[Pa.B. Doc. No. 07-437. Filed for public inspection March 16, 2007, 9:00 a.m.]

INSURANCE DEPARTMENT

[31 PA. CODE CH. 133]

Preparation and Filing of Forms for Approval (Fire and Casualty)

The Insurance Department (Department) proposes to delete Chapter 133 (relating to preparation and filing of forms for approval (fire and casualty)) to read as set forth in Annex A. This rulemaking is proposed under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 422 and 412) and section 354 of The Insurance Company Law of 1921 (40 P. S. § 477b).

Purpose

The purpose of this proposed rulemaking is to rescind Chapter 133 to eliminate obsolete, unnecessary regulations. The provisions of this chapter were adopted at 1 Pa.B. 364 (October 10, 1970).

Chapter 89b (relating to approval for life insurance, accident and health insurance and property and casualty insurance filing and form) was adopted at 32 Pa.B. 5747 (November 23, 2002) and renumbered at 32 Pa.B. 6128 (December 14, 2002), which revised the regulations for property and casualty insurers filing provisions and preparation of forms. The regulations prescribed the submission requirements for fire and casualty forms filed for automobile, glass, general liability, homeowners, package, and the like, and fire lines of insurance. The standards were incorporated into Chapter 89b and, therefore, the regulations in Chapter 133 are outdated and no longer needed.

Affected Parties

The proposed rescission of Chapter 133 affects property and casualty insurers, the State Workmen's Insurance Fund and title insurers.

Fiscal Impact

There is no fiscal impact as a result of the rescission of Chapter 133.

Paperwork

The rescission of Chapter 133 would impose no additional paperwork requirements on the Department or insurers.

Effectiveness/Sunset Date

The rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*. Because the rulemaking proposes to rescind Chapter 133, no sunset date has been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking should be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, fax (717) 705-3873, psalvatore@state.pa.us within 30 days following the publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Under the Regulatory Review Act (71 P. S. §§ 745.1—745.15), the Department is required to write to all commentators requesting whether or not they wish to receive a copy of the final-form rulemaking. To better serve the stakeholders, the Department has made a determination that all commentators will receive a copy of the final-form rulemaking when it is made available to the Independent Regulatory Review Commission (IRRC) and the Legislative Standing Committees.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 2, 2007, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to IRRC and to the Chairpersons of the Senate Banking and Insurance Committee and the House Committee on Insurance. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the

close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

RANDOLPH L. ROHRBAUGH,
Acting Insurance Commissioner

Fiscal Note: 11-234. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 31. INSURANCE****PART VIII. MISCELLANEOUS PROVISIONS****CHAPTER 133. [PREPARATION AND FILING OF
FORMS FOR APPROVAL (FIRE AND CASUALTY)]
(Reserved)**

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to rescind Chapter 133, which appears in 31 Pa. Code pages 133-1—133-4, serial pages (254713) to (254716).)

§§ 133.1—133.12. (Reserved).

[Pa.B. Doc. No. 07-438. Filed for public inspection March 16, 2007, 9:00 a.m.]