

CHAPTER 301. GENERAL PROVISIONS

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Authority

The provisions of this Chapter 301 issued and amended under section 11(a) of the Regulatory Review Act (71 P. S. § 745.11(a)), unless otherwise noted.

Source

The provisions of this Chapter 301 adopted July 2, 1999, effective July 3, 1999, 29 Pa.B. 3349, unless otherwise noted.

§ 301.1. Definitions.

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

Act—The Regulatory Review Act (71 P.S. §§ 745.1—745.14).

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

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

CDL—Commonwealth Documents Law—The act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1102 and 1201—1208) and 45 Pa.C.S. Part II (relating to publication and effectiveness of Commonwealth documents).

Comments—Written statements delivered to the agency or Commission supporting, opposing or recommending changes to a final, proposed or existing regulation which is subject to review by the Commission. Comments do not include previously published or copyrighted material.

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)).

Commission—The Independent Regulatory Review Commission.

Committee—As defined in section 3 of the act.

Committee action—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)); or 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.

Commonwealth Attorneys Act—The act of October 15, 1980 (P.L. 950, No. 164) (71 P.S. §§ 732-101—732-506).

Deemed approved by the Commission—The approval of a regulation by the Commission by operation of law when the Commission has not approved or disapproved the regulation, in accordance with section 5.1(e) of the act. 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.

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.

Delivery—

(i) The deposit of regulations, correspondence or other documents with the Commission or committees through postal or other delivery service, hand delivery, email 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.

Embargoed material—

(i) Comments pertaining to a regulation on the agenda for the Commission's public meeting delivered during the blackout period by anyone, except comments from 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.

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

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

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

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

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

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

Form letters—Letters which contain verbatim text.

LRB—The Legislative Reference Bureau of the Commonwealth.

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

Preamble—A part of the regulatory package that provides information about the following:

(i) A proposed regulation that includes the effective date, statutory authority, purpose and explanation of the regulation, a description of the amendments to the regulation, fiscal impact, contact person and details regarding the public comment period.

(ii) A final regulation that includes the effective date, statutory authority, purpose and explanation of the regulation, a description of any amendments made from the proposed stage, fiscal impact, contact person and a response to all comments received, unless that response is provided in a separate document.

(iii) A final-omitted regulation that includes the effective date, statutory authority, purpose and explanation of the regulation, legal authority for omitting the proposed stage, a description of any amendments to the regulation, fiscal impact and contact person.

Promulgate—As defined in section 3 of the act.

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

Public meeting—The scheduled meeting of the Commission conducted in accordance with the Sunshine Act.

Regulation—As defined in section 3 of the act.

Regulatory analysis form—The document accompanying a regulation that contains the information required under section 5(a) of the act.

Regulatory review criteria—The criteria delineated in section 5.2(a) and (b) of the act.

Sunshine Act—65 Pa.C.S. §§ 701—716.

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

Web site—The Commission's web site at www.irrc.state.pa.us.

Withdrawal—As defined in section 3 of the act.

Source

The provisions of this § 301.1 amended March 26, 2004, effective March 27, 2004, 34 Pa.B. 1681; amended November 2, 2007, effective November 3, 2007, 37 Pa.B. 5886; amended April 13, 2018, effective April 14, 2018, 48 Pa.B. 2126. Immediately preceding text appears at serial pages (330901) to (330903).

Cross References

This section cited in 1 Pa. Code § 305.1 (relating to delivery of a proposed regulation); 1 Pa. Code § 307.2 (relating to delivery of a final-form regulation); and 1 Pa. Code § 307.3 (relating to delivery of a final-omitted regulation).

§ 301.2. Regulation files.

(a) The Commission will retain regulation files for no less than the time period in the following schedule:

- (1) *Promulgated regulations.* Four years after the date of promulgation.
- (2) *Withdrawn or deemed withdrawn regulations.* Four years after the date of delivery of the proposed or final-omitted regulation to the Commission.
- (3) *Final regulations which are not promulgated.* Four years after the date of delivery to the Commission.

(b) Regulation files will include the following materials:

- (1) The original regulatory analysis form and the original regulation.
- (2) Comments received from the time a proposed or final 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.
- (3) Commission comments.
- (4) Commission orders.

(c) After the Commission takes final action on a regulation under section 5.1(e), (g)(3) or 7(c.1) of the act or the regulation is withdrawn or deemed withdrawn, the Commission's regulation file will be closed.

(d) Any person may examine or obtain copies of the materials contained in regulation files. The Commission will make regulation files available by doing one or more of the following:

- (1) Posting on the Commission's web site.
- (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 material contained in a regulation file. Fees are established in the Commission's Right to Know Law Policy, which is available in the Commission's office and posted on the web site.

Source

The provisions of this § 301.2 amended March 26, 2004, effective March 27, 2004, 34 Pa.B. 1681; amended November 2, 2007, effective November 3, 2007, 37 Pa.B. 5886; amended April 13, 2018, effective April 14, 2018, 48 Pa.B. 2126. Immediately preceding text appears at serial pages (330903) to (330904).

§ 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:

- (1) *E-mail.* The time and date of receipt by the Commission as indicated on the Commission's computer system.

(2) *Fax*. The time and date of receipt by the Commission as indicated on the transmittal report generated by the Commission's facsimile machine.

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

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

(b) If the commentator requests confirmation of delivery of hand-carried 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 e-mailed or faxed 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 comments or documents were delivered prior to the blackout period.

Source

The provisions of this § 301.3 amended March 26, 2004, effective March 27, 2004, 34 Pa.B. 1681; amended April 13, 2018, effective April 14, 2018, 48 Pa.B. 2126. Immediately preceding text appears at serial page (330904).

§ 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 end on the first business day after the expiration day established in the act or this part if the expiration 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, 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.

(5) A Saturday or Sunday.

(b) A part-day holiday is considered a normal business day and not a day that would require the extension of a time period for delivery.

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

Source

The provisions of this § 301.4 amended March 26, 2004, effective March 27, 2004, 34 Pa.B. 1681. Immediately preceding text appears at serial page (257274).

§ 301.5. Expiration of Commission review period.

(a) The Commission review period will end on the first business day after the expiration day established under the act or this part if the expiration 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, Commission or committee offices located in Harrisburg are closed due to emergency circumstances.
- (4) A day on which the Commission office is officially closed.
- (5) A Saturday or Sunday.

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

Source

The provisions of this § 301.5 amended March 26, 2004, effective March 27, 2004, 34 Pa.B. 1681; amended November 2, 2007, effective November 3, 2007, 37 Pa.B. 5886. Immediately preceding text appears at serial page (303097).

§ 301.6. Delivery of a regulation to 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 committee designated to review its regulations, the agency shall deliver the regulation to the designated committee.

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

(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 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.

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

Source

The provisions of this § 301.6 amended March 26, 2004, effective March 27, 2004, 34 Pa.B. 1681; amended November 2, 2007, effective November 3, 2007, 37 Pa.B. 5886. Immediately preceding text appears at serial pages (303097) to (303098).

§ 301.7. Withdrawal of a regulation.

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

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

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

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

Source

The provisions of this § 301.7 amended April 13, 2018, effective April 14, 2018, 48 Pa.B. 2126. Immediately preceding text appears at serial page (330906).

Cross References

This section cited in 1 Pa. Code § 307.4 (relating to amending by withdrawal the regulation or tolling the review period).

§ 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.

Source

The provisions of this § 301.8 amended March 26, 2004, effective March 27, 2004, 34 Pa.B. 1681; amended November 2, 2007, effective November 3, 2007, 37 Pa.B. 5886. Immediately preceding text appears at serial page (303098).

§ 301.9. Procedure for public hearings.

(a) The Commission may schedule public hearings on any matter before the Commission, including those that are related to a proposed, a final or an existing regulation under review.

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

(c) The chairperson will designate a hearing officer to preside at the public hearing. The hearing officer will be charged with preserving order during the

public hearing. The hearing officer may determine the agenda, the order of commentators and the time allotted to each commentator.

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

Source

The provisions of this § 301.9 amended March 26, 2004, effective March 27, 2004, 34 Pa.B. 1681; amended April 13, 2018, effective April 14, 2018, 48 Pa.B. 2126. Immediately preceding text appears at serial page (330907).

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