

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

- Sec.
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Authority

The provisions of this Chapter 307 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 307 adopted July 2, 1999, effective July 3, 1999, 29 Pa.B. 3349; 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 (303107) to (303111).

Cross References

This chapter cited in 1 Pa. Code § 313.2 (relating to review of an emergency certified final regulation).

§ 307.1. Two-year period for promulgation.

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of the original, extended or reopened public comment period for the proposed regulation, the agency is deemed to have withdrawn the regulation.

Cross References

This section cited in 1 Pa. Code § 305.3 (relating to commission comments); 1 Pa. Code § 307.4 (relating to amending by withdrawing the regulation or tolling the review period); and 1 Pa. Code § 311a.5 (relating to delivery of a final regulation after the end of the legislative session).

§ 307.2. Delivery of a final-form regulation.

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

(b) On the same date that the agency submits the regulation to the committees and the Commission, the agency shall send, by first class mail or 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:

- (1) A completed regulatory analysis form relating to the final-form regulation updated and revised to correspond with changes made to the proposed regulation.
 - (2) A face sheet signed by the agency head and the Office of General Counsel or chief counsel of an independent agency.
 - (3) A transmittal sheet signed by the committees.
 - (4) The agency's response to the comments received. This response may be included in the preamble or in a separate document submitted with the regulation.
 - (5) The preamble, which must include a summary of the changes made to the proposed regulation and the information in the definition of "preamble" in § 301.1 (relating to definitions).
 - (6) The names and addresses of commentators who requested additional information on the final-form regulation or a statement that no commentator requested additional information.
 - (7) The text of the final-form regulation.
- (d) Until the date the Commission takes final action on the regulation, the agency shall deliver to the Commission and committees copies of comments within 5 business days of receipt. 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. The agency 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.

Source

The provisions of this § 307.2 amended April 13, 2018, effective April 14, 2018, 48 Pa.B. 2126. Immediately preceding text appears at serial pages (375305) to (375306).

Cross References

This section cited in 1 Pa. Code § 301.7 (relating to withdrawal of a regulation); 1 Pa. Code § 307.4 (relating to amending by withdrawing the regulation or tolling the review period); 1 Pa. Code § 311a.4 (relating to delivery of a final regulation within 20 days before the end of the legislative session); 1 Pa. Code § 311a.7 (relating to delivery of the report for subsequent review of a disapproved regulation); and 1 Pa. Code § 313.1 (relating to general).

§ 307.3. Delivery of a final-omitted regulation.

- (a) The agency shall deliver a final-omitted regulation to the committees, the Attorney General and the Commission on the same date.
- (b) The agency shall include the following documents with the regulation:
 - (1) A completed regulatory analysis form.
 - (2) A face sheet signed by the agency head and the Office of General Counsel or chief counsel of an independent agency.

- (3) A transmittal sheet signed by the committees and the Office of Attorney General.
 - (4) The preamble, which must include the information in the definition of “preamble” in § 301.1 (relating to definitions).
 - (5) The text of the final-omitted regulation.
- (c) Until the date the Commission takes final action on the regulation, the agency shall deliver to the Commission and committees copies of comments within 5 business days of receipt. 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. The agency 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.

Source

The provisions of this § 307.3 amended April 13, 2018, effective April 14, 2018, 48 Pa.B. 2126. Immediately preceding text appears at serial page (375306).

Cross References

This section cited in 1 Pa. Code § 311a.4 (relating to delivery of a final regulation within 20 days before the end of the legislative session); 1 Pa. Code § 311a.5 (relating to delivery of a final regulation after the end of the legislative session); 1 Pa. Code § 311a.7 (relating to delivery of the report for subsequent review of a disapproved regulation); and 1 Pa. Code § 313.1 (relating to general).

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

- (a) When preparing and formatting the text of the final-form regulation, the agency shall use as its source document the proposed regulation as published by the LRB in the *Pennsylvania Bulletin*.
- (b) 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 must 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.
- (c) If the entire proposed regulation was published in the format 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.

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

(e) If the final-omitted regulation is an amendment to an existing regulation, amendments in the final-omitted regulation must 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.

(f) If there are extenuating circumstances that may prevent an agency from using the requirements of this section, the agency shall contact the Commission to discuss alternative formatting methods.

Source

The provisions of this § 307.3a adopted 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 (375306) and (330917).

Cross References

This section cited in 1 Pa. Code § 311.4 (relating to report for a disapproved regulation submitted with revisions).

§ 307.4. Amending by withdrawing the regulation or tolling the review period.

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).

Cross References

This section cited in 1 Pa. Code § 313.2 (relating to review of an emergency certified final regulation).

§ 307.5. Tolling the review period.

(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 must 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 do one of the following:

(1) Deliver a revised regulation to the committees, the Commission and the Attorney General (for a final-omitted regulation) on the same date.

(2) Notify the Commission, the committees and the Attorney General (for a final-omitted regulation), on the same date, 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.

Cross References

This section cited in 1 Pa. Code § 307.4 (relating to amending by withdrawal the regulation or tolling the review period); and 1 Pa. Code § 313.2 (relating to review of an emergency certified final regulation).

§ 307.6. Time period for Commission review of a final regulation.

(a) The Commission may not act on a 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)).

(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.

(d) To determine whether the final regulation meets the regulatory review criteria, the Commission will consider 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.

Cross References

This section cited in 1 Pa. Code § 309.1 (relating to Commission and committee action on a final regulation).

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